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VOL. I, PP. 1 TO 604

TRANSCRIPT OF RECORD

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1939

No. 460.

NATIONAL LABOR RELATIONS BOARD, PETITIONER

VS.

THE FALK CORPORATION.

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT
OF APPEALS FOR THE SEVENTH CIRCUIT

PETITION FOR CERTIORARI FILED OCTOBER 12, 1939

CERTIORARI GRANTED NOVEMBER 13, 1939

IN THE
United States Circuit Court of Appeals
For the Seventh Circuit

No. 6707

NATIONAL LABOR RELATIONS BOARD,

Petitioner,

vs.

THE FALK CORPORATION,

Respondent.

Counsel for Petitioner:

**MR. CHARLES FAHY,
MR. ROBERT B. WATTS,**

Counsel for Respondent:

**MR. LEON B. LAMFROM,
MR. A. J. ENGELHARD,**

Petition for Enforcement of Order of National Labor Relations Board.

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Petition for Enforcement of Order.

1

And on, to wit, the 30th day of June, 1938, there was filed in the office of the Clerk of this Court, a petition for enforcement of an order of National Labor Relations Board, which said petition for enforcement is in the words and figures following, to wit:

IN THE UNITED STATES CIRCUIT COURT OF APPEALS,

Filed
June 30,
1938.

For the Seventh Circuit.

October Term, 1937.

National Labor Relations Board,	}	No. 6707.
<i>Petitioner,</i>		
<i>vs.</i>		
The Falk Corporation,		
<i>Respondent.</i>		

PETITION FOR ENFORCEMENT OF ORDER OF NATIONAL LABOR RELATIONS BOARD.

To the Honorable the Judges of the United States Circuit Court of Appeals for the Seventh Circuit:

The National Labor Relations Board, hereinafter called the Board, pursuant to the authority conferred upon it by an Act of Congress approved July 5, 1935 (49 Stat. 449, c. 372, 29 U. S. C. sec. 151 et seq.), known as the National Labor Relations Act, respectfully petitions this Honorable Court for the enforcement of a certain order issued by the Board in a proceeding by it against respondent, The Falk Corporation. Said proceeding is known upon the records of the Board as Cases Nos. R-278, and C-293, the title thereof being "In the Matter of The Falk Corporation and Amalgamated Association of Iron, Steel and Tin Workers of North America, Lodge 1528."

In support of this petition, the Board respectfully shows:

(1) Respondent is and at all times hereinafter mentioned was a corporation organized under and existing by virtue of the laws of the State of Wisconsin, having its main office and plant in Milwaukee, Wisconsin, where the unfair labor practices occurred.

(2) By reason of the matters alleged in paragraph (1)

hereof, this Court has jurisdiction of this petition by virtue of section 10 (e) of the National Labor Relations Act.

(3) A charge and an amended charge having been filed on May 24, 1937, and August 2, 1937, respectively, with the Board through its Regional Director for the Twelfth Region, by Steel Workers Organizing Committee in behalf of Amalgamated Association of Iron, Steel and Tin Workers of North America, Lodge 1528, hereinafter called the Amalgamated, the Board, on August 4, 1937, issued a complaint in said case No. C-293, alleging that respondent had engaged and was engaging in certain unfair labor practices affecting commerce within the meaning of the Act. Thereafter, on August 2, 1937, a petition for investigation and certification was filed with the Board through said Regional Director by Steel Workers Organizing Committee in behalf of the Amalgamated (Case No. R-278). Thereafter the Board made an order directing an investigation in said Case No. R-278. Hearings in said two cases were noticed for August 16, 1937. Thereafter, on August 12, 1937, respondent filed an answer to the complaint in said Case No. C-293. Thereafter, on August 13, 1937, Independent Union of Falk Employees, hereinafter called the Independent, and International Union of Operating Engineers, Local 311, hereinafter called the Operating Engineers, each filed a petition to intervene. Thereafter, said petitions were granted.

(4) On August 14, 1937, the Board made an order consolidating said Cases Nos. C-293, and R-278 for the purpose of hearing and designating James C. Batten Trial Examiner.

(5) Thereafter, on August 16 through 20, and 23 through 25, 1937, a hearing was held before said Trial Examiner in Milwaukee, Wisconsin. At the opening of the hearing, the petitions to intervene, referred to in paragraph (3) hereof, were renewed and granted. Full opportunity to be heard, to examine and cross-examine witnesses and to introduce evidence bearing upon the issues was afforded all parties. At the conclusion of the hearing, Board counsel's motion that the complaint be amended to conform to the proof was granted.

(6) Thereafter, on November 2, 1937, said Trial Examiner filed an Intermediate Report in which he found that respondent had engaged and was engaging in certain unfair labor practices affecting commerce within the meaning of the Act, and made certain recommendations. Respondent and the Independent, on November 27, 1937, and November 29, 1937,

Petition for Enforcement of Order.

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respectively, each filed exceptions to said Intermediate Report.

(7) Thereafter, on February 25, 1938, a hearing was held before the Board in Washington, D. C., for the purpose of oral argument. Respondent, the Operating Engineers, and the Independent were represented by counsel, who argued the case before the Board. Thereafter, briefs were submitted by respondent and the Independent.

(8) Thereafter, on April 18, 1938, the Board, being sufficiently advised in the premises and being of the opinion, upon all the testimony and evidence, that respondent had engaged and was engaging in certain unfair labor practices affecting commerce within the meaning of the Act, found the exceptions, referred to in paragraph (6) hereof, without merit and stated its findings of fact and conclusions of law and made its decision, order, and direction of election in said proceeding. Said order is directed to respondent, and its officers, agents, successors and assigns and reads as follows:

Order.

Upon the basis of the foregoing findings of fact and conclusions of law, and pursuant to Section 10 (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that the respondent, The Falk Corporation, and its officers, agents, successors and assigns shall:

1. Cease and desist:

(a) From dominating or interfering with the formation or administration of the Independent Union of Falk Employees, or any other labor organization of its employees, and from contributing support to the Independent Union of Falk Employees, or to any other labor organization of its employees;

(b) From in any other manner interfering with, restraining, or coercing its employees in the exercise of their rights to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purposes of collective bargaining or other mutual aid or protection.

2. Take the following affirmative action which the Board finds will effectuate the policies of the Act:

(a) Withdraw all recognition from the Independent Union of Falk Employees as the representative of any of its em-

ployees for the purpose of dealing with the respondent concerning grievances, labor disputes, wages, rates of pay, hours of employment, and other conditions of employment, and completely disestablish the Independent Union of Falk Employees as such representative;

(b) Immediately post notices in conspicuous places throughout its Milwaukee plant and maintain such notices for a period of thirty (30) consecutive days stating (1) that the respondent will cease and desist in the manner aforesaid, and (2) that it has withdrawn all recognition from the Independent Union of Falk Employees as the representative of its employees for the purpose of dealing with the respondent concerning grievances, labor disputes, wages, rates of pay, hours of employment, and other conditions of employment, and that it has completely disestablished said organization as such representative;

(c) Notify the Regional Director for the Twelfth Region in writing within ten (10) days from the date of this Order what steps it has taken to comply herewith.

3. The complaint is hereby dismissed (1) in so far as it alleges that the respondent committed unfair labor practices within the meaning of Section 8 (3) of the Act in discharging Anton Kirch, and (2) in so far as it alleges that the respondent has engaged in an unfair labor practice within the meaning of Section 8 (5) of the Act.

(9) Thereafter, on April 18, 1938, said decision, order, and direction of election was served upon respondent, the Operating Engineers, and the Independent by sending copies thereof postpaid, bearing Government frank, by registered mail, to Lamfrom, Tighe, Engelhard & Peck, respondent's attorneys, A. G. Goldberg, Operating Engineers' attorney, and Alexander, Burke & Clark, Independent's attorneys, all in Milwaukee, Wisconsin.

(10) Said order of the Board, set forth in paragraph (8) hereof, is and at all times since its issuance has been in full force and effect.

Wherefore, the Board petitions this Honorable Court for the enforcement of its order of April 18, 1938, set forth in paragraph (8) hereof, and, pursuant to sections 10 (e) and 9 (d) of the National Labor Relations Act, is certifying and filing with this Court a transcript of the entire record in the proceedings before the Board, including the pleadings, testimony and evidence, findings of fact, conclusions of law, order, and direction of election of the Board.

Petition for Enforcement of Order.

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The Board prays this Honorable Court that it cause notice of the filing of this petition and transcript to be served upon respondent and that this court take jurisdiction of the proceedings and of the questions determined therein and make and enter upon the pleadings, testimony and evidence and the proceedings set forth in the transcript and upon the order made thereupon a decree enforcing in whole said order of the Board and requiring respondent and its officers, agents, successors and assigns to comply therewith.

Edwin S. Smith,

Member,

Donald Wakefield Smith,

Member,

National Labor Relations Board.

Dated at Washington, D. C., this 27 day of June, 1938.

Robert Watts,

Acting General Counsel.

District of
Columbia. } ss.

Edwin S. Smith and Donald Wakefield Smith, being first duly sworn, state that they are members of the National Labor Relations Board; that they have read the foregoing petition subscribed by them and have knowledge of the contents thereof; and they further on oath say that the statements made therein are true to the best of their knowledge and belief.

Edwin S. Smith,

Member.

Donald Wakefield Smith,

Member.

Subscribed and sworn to before me this 27th day of June, 1938.

John E. Lawyer,

(Seal)

Notary Public, District of Columbia.

My commission expires September 8, 1939.

Endorsed: Filed June 30, 1938, - Frederick G. Campbell,
Clerk.

Answer of Respondent.

filed
19.
1938.

And afterwards, to wit, on the 19th day of July, 1938, there was filed in the office of the Clerk of ~~this~~ Court an answer of respondent to the petition for enforcement, which said answer of respondent is in the words and figures following, to wit:

IN THE UNITED STATES CIRCUIT COURT OF APPEALS.

• • (Caption—6707) • •

ANSWER OF THE RESPONDENT, THE FALK CORPORATION, TO THE PETITION OF THE NATIONAL LABOR RELATIONS BOARD.

To the Honorable the Judges of the United States Circuit Court of Appeals for the Seventh Circuit:

Now comes the respondent, The Falk Corporation, by its attorneys, and for its answer to the petition of the National Labor Relations Board, for the enforcement of an order of the said Board, respectfully shows and alleges:

That the order of the petitioner, dated April 18th, 1938, which the petitioner is asking your Honorable Court to enforce, was and is contrary to law, null and of no effect, for the following reasons, among others:

(a) Petitioner's Conclusions of Law, upon which said Order was based, are erroneous.

(b) Petitioner's Findings of Fact, upon which said Order was based, are not supported by substantial evidence.

(c) That such Findings of Fact, which are supported by substantial evidence, are insufficient to support the Order.

Wherefore, the respondent respectfully prays the Court to deny to the petitioner, enforcement of the said Order of April 18th, 1938.

The Falk Corporation,

Respondent.

By Harold S. Falk,

Vice-President.

Leon B. Lamfrom,

Leon B. Lamfrom,

A. J. Engelhard,

A. J. Engelhard,

Attorneys for Respondent.

Affidavit of Service.

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State of Wisconsin }
Milwaukee County } ss.

Harold S. Falk, being first duly sworn, on oath deposes and says that he is an officer, to-wit: the Vice-President of The Falk Corporation, the respondent in the above entitled action, and makes this verification on its behalf, being duly authorized so to do; that he has read the foregoing answer and knows the contents thereof, and that the same is true of his own knowledge, except as to those matters therein stated on information and belief, and as to such matters, he believes it to be true.

Harold S. Falk.

Subscribed and sworn to before me this 18 day of July, 1938.

Harold W. Rowe;
Notary Public.
Milwaukee Co., Wis.

(Seal)

My commission expires Dec. 21, 1941.

IN THE UNITED STATES CIRCUIT COURT OF APPEALS.

For the Seventh Circuit.

October Term 1937.

National Labor Relations Board,
Petitioner, }

vs.

The Falk Corporation,
Respondent. }

No. 6707.

State of Wisconsin }
Milwaukee County } ss.

Wirth Koenig, being first duly sworn, on oath deposes and says that he is a resident of the Village of Shorewood, Milwaukee County, Wisconsin, over 21 years of age.

That on the 18th day of July, 1938, in the City of Milwaukee, Wisconsin, he deposited in the Post Office in Milwaukee, Wisconsin, a copy of the within and annexed Answer of the Respondent, The Falk Corporation, securely enclosed in an envelope, with the postage duly prepaid, and sent by Registered Mail, addressed to the Petitioner, National Labor Relations

Affidavit of Service.

Board, at the said Petitioner's post office address, to-wit: Washington, D. C.

That attached hereto is a registry receipt of the United States Post Office of Milwaukee, Wisconsin, which affiant received at said Post Office when affiant deposited the said envelope containing the copy of said Answer.

Wirth Koenig.

Subscribed and sworn to before me this 18th day of July, 1938.

(Seal)

Marguerite M. Baker,
Notary Public.
Milwaukee Co., Wis.

My commission expires Oct. 20, 1940.

(Postmark of) Milwaukee, Wis, Registered Jul 18 1938
Form 3806 (Rev. Jan. 21, 1935)

Receipt for Registered Article No. 3935

Registered at the Post Office indicated in the postmark

Fee paid 15 cents Class postage 1

Declared value N O Surcharge paid, \$

Return Receipt-fee ☒ Spl. Del'y fee

Delivery restricted to addressee:

in person, or order Fee paid

Accepting employee will place his initials in space indicating restricted delivery.

Postmaster, per A. K. (Mailing Office)

The sender should write the name of the addressee on back hereof as an identification. Preserve and submit this receipt in case of inquiry or application for indemnity.

Registry Fees and Indemnity.—Domestic registry fees range from 15 cents for indemnity not exceeding \$5 up to \$1 for indemnity not exceeding \$1,000. The fee on domestic registered matter without intrinsic value and for which indemnity is not paid is 15 cents. Consult postmaster as to the specific domestic registry fees and surcharges, and as to the registry fees chargeable on registered parcel-post packages for foreign countries. Fees on domestic registered C. O. D. mail range from 25 cents to \$1.20. Indemnity claims must be filed within one year (C. O. D. six months) from date of mailing.

U. S. Government Printing Office 75-6852

(Endorsed) In the United States Circuit Court of Appeals
• • (Caption—6707) • • Answer of the Respondent,
The Falk Corporation, to the Petition of the National Labor
Relations Board—Filed Jul 19 1938. Frederick G Campbell,
Clerk.

Notice of Hearing.

9

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BOARD EXHIBIT NO. 3.

UNITED STATES OF AMERICA

Before the National Labor Relations Board

Twelfth Region.

In the Matter of
The Falk Corporation
and

Amalgamated Association of Iron,
Steel & Tin Workers of North
America, Lodge 1528.

Case No. XII—C-57

Case No. XII—R-35

NOTICE OF HEARING.

There has heretofore been filed with the Regional Director for the National Labor Relations Board of the Twelfth Region a petition by the Amalgamated Association of Iron, Steel and Tin Workers of North America, Lodge 1528, an unincorporated association and a lawful labor organization affiliated with the Committee for Industrial Organization alleging that a question of commerce has arisen concerning the representation of all the employees, except supervisory employees, draftsmen, employees in the general office, and employees in the payroll department, at the Milwaukee, Wisconsin, plant owned and operated by The Falk Corporation, a corporation in the City of Milwaukee, County of Milwaukee, State of Wisconsin, and requesting that pursuant to authority granted in Section 9(c) of the National Labor Relations Act, the National Labor Relations Board investigate such controversy and certify the name or names of the representatives that have been designated by said employees.

A copy of said petition is attached hereto.

5 It appearing to the National Labor Relations Board that a question affecting commerce has arisen concerning the representation of all the employees of The Falk Corporation; except supervisory employees, draftsmen, employees in the general office, and employees in the payroll department, in the said Milwaukee plant;

You Are Hereby Notified that, pursuant to Section 9(c)

Notice of Hearing.

of the National Labor Relations Act, a hearing will be conducted before the National Labor Relations Board by a Trial Examiner to be designated by it in accordance with its Rules and Regulations, Series 1, As Amended, Article IV, Section 3 and Article III, Section 5, on the sixteenth day of August, A. D. 1937 at 10:00 a. m. in the forenoon, in the Milwaukee County Court House, Room 409, in the City of Milwaukee, County of Milwaukee, State of Wisconsin, upon the question of representation affecting commerce which has arisen, at which time and place you will have a right to appear in person or otherwise and give testimony.

You are further notified that on the said sixteenth day of August, A. D. 1937, at the hour and place aforesaid, and before the Trial Examiner to be designated by the National Labor Relations Board in accordance with the Rules and Regulations, Series 1, As Amended, Article IV, Section 3 and Article II, Section 23, a hearing will be conducted on the allegations set forth in the Complaint attached hereto, at which time and place you will have a right to appear in person or otherwise and give testimony.

6 Copies of the original and amended charge are attached hereto.

You are further notified that you have the right to file with the Regional Director for the Twelfth Region acting in this matter as the agent of the National Labor Relations Board, an answer to the Complaint attached hereto within five days of the service of the said Complaint.

Enclosed herewith for your information is a copy of Rules and Regulations, Series 1, As Amended, made and published by the National Labor Relations Board pursuant to authority granted in the National Labor Relations Act. Your attention is particularly invited to Articles II and III of said Rules and Regulations.

In Witness Whereof the National Labor Relations Board has caused this, its Notice of Hearing, to be signed by the Regional Director for the Twelfth Region on this 4th day of August, 1937.

Nathaniel S. Clark,
Nathaniel S. Clark,
Director, Twelfth Region,
519 Brumder Building,
135 West Wells Street,
Milwaukee, Wisconsin.

Affidavit of Service.

11

Copies of within documents received this 4th day of August, 1937.

Meyer Adelman,
for Lodge 1528.
Lamfrom, Fuglie Engelhardt & Reilly,
Attys. for Resp.

7 • • NATIONAL LABOR RELATIONS BOARD. • •

(Caption—XII-C-57 and XII-R-85)

AFFIDAVIT OF SERVICE.

Irma E. Struebing, Employee, Twelfth Region, being duly sworn, deposes and says that on the fourth day of August, 1937, as agent of the National Labor Relations Board, she served a true and correct copy of the within Notice of Hearing, by sending by registered letter such copy to

1. Independent Union of Falk Employees, c/o The Falk Corporation, 3001 W. Canal Street, Milwaukee, Wisconsin, and that thereafter she received from the United States Post Office a return in the form of registered letter receipt numbered 163357, which return receipt is attached hereto and made a part hereof.

Irma E. Struebing.
Irma E. Struebing.

Subscribed and sworn to before me this 5th day of July, 1937.

(Seal)

Walter J. Morgan,
Notary Public.

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Affidavit of Service.

8 Post Office Department
Official Business

Penalty for Private Use
To Avoid Payment of
Postage, \$300.

Registered Article
(Stamp) No. 463357
Insured Parcel

Postmark of Delivering
Office

No.

(Milwaukee)

(430 P M)

(Aug 6)

(1937)

(Wis.)

And Date of Delivery

Return to National Labor Relations Board
(Name of Sender)

Street and Number,

or Post Office Box, 519 Brumder Building, 135 W. Wells St.
Milwaukee,
Wisconsin.

Return Receipt

Received from the Postmaster the Registered or Insured
Article, the original number of which appears on the face of
this Card.

Fred Wilson

(Signature or name of addressee)

J. A. Nowak

(Signature of addressee's agent)

Date of Delivery Aug 6 1937

Form 3811

9

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

Twelfth Region

In the matter of

The Falk Corporation

and

Amalgamated Association of Iron,
Steel and Tin Workers of N. A.,
Lodge No. 1528, Petitioners.

Case No. XII R 85

PETITION FOR INVESTIGATION AND CERTIFICATION OF REPRESENTATIVES PURSUANT TO SECTION 9(c) OF THE NATIONAL LABOR RELATIONS ACT.

Name of employer The Falk Corporation.

Address 3001 W. Canal, Milwaukee, Wisconsin.

General nature of business Designing, manufacturing, assembly, sale and distribution of castings and various types of gears.

Approximate number of employees 1600. Description of the bargaining unit which petitioner claims is appropriate All employees at the Milwaukee plant except supervisory employees, draftsmen, employees in the general office and employees in the payroll department.

Number and classification of employees which representatives on whose behalf petition is filed claim to represent Approximately 1400 employees at the Milwaukee plant except supervisory employees, draftsmen, employees in the general office and employees in the payroll department.

Names of any other known individuals or labor organizations who claim to represent any of the employees in such bargaining unit Independent Union of Falk Employees.

Any other facts which petitioner considers relevant.

The undersigned hereby alleges that a question has arisen concerning the representation of the employees in the above bargaining unit, in that:

It is alleged that the Independent Union of Falk Employees is a labor organization created in violation of Section 8, subsection (2) of the National Labor Relations Act.

Complaint.

The undersigned further alleges that said question concerning representation is a question affecting commerce within the meaning of said act.

The undersigned requests that pursuant to section 9(c) of the National Labor Relations Act, the National Labor Relations Board investigate such controversy and certify to the parties the name or names of the representatives that have been designated or selected by said employees.

Name and address of employees or representatives filing the petition. (If made by a labor organization, give also the name and official position of the person acting for the organization.)

Meyer Adelman,
Meyer Adelman, Field Director
Steel Workers Organizing Committee
3026 Plankinton Arcade
Milwaukee, Wisconsin.

Subscribed and sworn to before me this 2d day of August, 1937, at Milwaukee, Wisconsin.

Fred J. Saddy,
Notary Public.

My Commission Expires July 27, 1941.

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UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

Twelfth Region

In the Matter of
The Falk Corporation
and

Amalgamated Association of Iron,
Steel & Tin Workers of North
America, Lodge 1528.

Case No. XII-C-57

COMPLAINT.

It having been charged by the Amalgamated Association of Iron, Steel and Tin Workers of North America, Lodge 1528, by Meyer Adelman, that The Falk Corporation, hereinafter called the respondent, engaged in manufacturing at Milwaukee, Wisconsin, has engaged in and is now engaged in certain

unfair labor practices affecting commerce as set forth and defined in the National Labor Relations Act, approved July 5, 1935, the National Labor Relations Board hereby alleges the following:

1. The respondent was organized and incorporated on June 3, 1895, as The Falk Manufacturing Company. Thereafter on February 18, 1899, the name of the respondent company was changed to The Falk Company. The Falk Company was dissolved in May, 1921, and the present respondent, namely, The Falk Corporation was organized. Since its original organization, the respondent has been organized and existing under the laws of the State of Wisconsin, and is now and has continuously been engaged in the operation of its plant at Milwaukee, Wisconsin, hereinafter called the Milwaukee plant, in the design, manufacture, assembly, sale and distribution of the following products: Steel castings, helical gears, speed reducers, speed increasers, couplings, Motoreducers, marine drives, rolling drives, pinion stands, flexible couplings, contract machine work, and many other varied machine products. The respondent in the operation of its business maintains and operates sales agencies, district offices and sales representatives in 50 cities of the United States, 6 cities in the various provinces of Canada, in 2 cities in the Republic of Mexico, and in the Philippine Islands, Hawaii, Cuba, and South Africa.

2. The respondent, in the course and conduct of its business and in the operation of its Milwaukee plant, causes and has continuously caused large quantities of materials consisting of pig iron, scrap steel, bar steel, coal, silica sand, fire clay, grey iron castings, nuts, bolts, screws, rivets, electric and gasoline motors, Diesel engines, roller bearings, Marine Thrust bearings, lumber, copper, tin, sheet metal, various types and kinds of wires, paint, chemicals, cables, pulleys, and various other raw materials used by it in the manufacture of its products to be purchased and transported in interstate commerce from and through states of the United States other than the State of Wisconsin to the Milwaukee plant in the State of Wisconsin; and causes and has continuously caused large quantities of the finished products manufactured and produced by it to be sold, transported, and distributed in interstate commerce from the Milwaukee plant in the State of Wisconsin into and through states of the United States other than the State of Wisconsin and into foreign countries.

3. The Amalgamated Association of Iron, Steel, and Tin Workers of North America, Local 1528, hereinafter called the Union, affiliated with the Committee for Industrial Organization, is a labor organization as defined in Section 2, subsection (5) of the Act.

4. A unit, for the purpose of collective bargaining composed of all the employees employed by the respondent at the Milwaukee plant, except supervisory employees, draftsmen, employees in the general office, and employees of the payroll department, would insure to employees of the respondent at the Milwaukee plant the full benefit of their right to self-organization and to collective bargaining and would otherwise effectuate the policies of the National Labor Relations Act and is a unit appropriate for the purposes of collective bargaining.

5. A majority of the employees in the said unit have designated the Union as its representative for the purpose of collective bargaining with the respondent, such designation having been made by signing of application cards and membership in the said Union. By virtue of Section 9 (a) of said Act, the Union is and has continuously been the exclusive representative of all employees in said unit for the purpose of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment.

6. At various times respondent, when requested by the Union, has refused to bargain collectively with the Union as the exclusive bargaining agency for all of its employees

13 as above enumerated. Said employees together constitute an appropriate bargaining unit. By such refusal to bargain collectively as hereinbefore stated, the respondent has thereby engaged in and is thereby engaging in an unfair labor practice within the meaning of Section 8, subsection (5) of said Act.

7. On or about December 31, 1936, while engaged in operations at its Milwaukee plant, as aforesaid, the respondent by its officers and agents discharged one Anton Kinch for the reason that the said Anton Kinch had engaged in concerted activities with other employees at the Milwaukee plant for their mutual air and protection and collective bargaining, and for the further reason of discouraging concerted activities on the part of other employees at the said Milwaukee plant.

8. Respondent refused and does not refuse to reinstate the said Anton Kinch for the reason that he engaged in concerted

activities with other employees in the respondent's Milwaukee plant for the purpose of collective bargaining and other mutual aid and protection, and for the further reason of discouraging concerted activities on the part of other employees. By the discharge and refusal to reinstate the said Anton Kinch as above set forth, respondent did discriminate and is discriminating in regard to hire and tenure of employment of the said Anton Kinch, did discourage and is discouraging membership in the Union, and did thereby engage and does now thereby engage in unfair labor practices within the meaning of Section 8, subsection (3) of the said Act.

14 9. The respondent, by its officers and agents, while operating as hereinbefore described, up to and including the date of the filing of this complaint, dominated, fostered, encouraged and interfered with the formation, enlistment of membership, and administration of a labor organization of its employees known as the Independent Union of Falk Employees and did and does now contribute financial and other support thereto. Said interference did and does have the purpose, intent, and effect of intimidating, coercing, restraining and interfering with the lawful exercise of the rights of its employees guaranteed in Section 7 of the Act. By virtue of such conduct, the respondent has and does now violate Section 7 of the National Labor Relations Act and is thereby engaging in unfair labor practice within the meaning of Section 8, subsection (2) of said Act.

10. By all of the above said acts and each of them, by the discharge of the said Anton Kinch, by the refusal to reinstate the said Anton Kinch, by the domination or interference with the formation or administration of a labor organization known as the Independent Union of Falk Employees, and by the refusal to bargain collectively, the respondent did interfere with, restrain, coerce, and is interfering with, restraining and coercing its employees in the exercise of their rights guaranteed in Section 7 of the National Labor Relations Act, and by all of said acts and each of them did engage in and is now engaging in unfair labor practices within the meaning of Section 8, subsection (1) of said Act.

15 11. The activities of respondent set forth in paragraphs 6, 7, 8, 9 and 10 above, occurring in connection with the operations of respondent described in paragraphs 1 and 2 above, have a close, intimate, and substantial relation to trade, traffic, and commerce among the several states, and

have led and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

12. The aforesaid acts of the respondent enumerated in paragraphs 6, 7, 8, 9 and 10 above, constitute unfair labor practices affecting commerce within the meaning of section 8, subsections (1), (2), (3) and (5), and Section 2, subsections (6) and 7) of said Act.

In Witness Whereof the National Labor Relations Board as of August 4, 1937, issues its Complaint against The Falk Corporation, respondent herein.

Nathaniel S. Clark,

Nathaniel S. Clark,

Director, Twelfth Region,

519 Brumder Building,

135 West Wells Street,

Milwaukee, Wisconsin.

BEFORE THE NATIONAL LABOR RELATIONS BOARD.

Twelfth Region.

In the Matter of

The Falk Corporation

and

Amalgamated Association of Iron,

Steel and Tin Workers of N. A.

Lodge No. 1528.

Case No. XII-C-57.

CHARGE.

Pursuant to Section 10(b) of the National Labor Relations Act, the undersigned hereby charges that The Falk Corporation, 3001 W. Canal, Milwaukee, Wisconsin, has engaged in and is engaging in unfair labor practices within the meaning of Section 8, subsections (1) and (2) and (3) of said Act in that (1) The Falk Corporation, by its officers or agents, has dominated or interfered with the formation or administration of a labor organization or plan of employee representation among its employees known as the Falk Corporation Works Council, and has contributed financial or other support to it;

(2) The Falk Corporation, by its officers or agents, has

dominated or interfered with the formation or administration of a labor organization among its employees known as the Independent Union of Falk Employees, and has contributed financial or other support to it;

(3) The Falk Corporation, by its officers or agents, on or about April 18, 1937, did discharge or lay off one Fred Douglas, one of its employees, and prior to said discharge did transfer the said Douglas from his regular work to other and less desirable duties, for the purpose of discriminating against the said Douglas and in order to discourage membership in a labor organization known as the Amalgamated Association of Iron, Steel, and Tin Workers of North America, Lodge No. 1528, or in order to encourage membership in said Independent Union of Falk Employees, or both;

(4) The Falk Corporation, by its officers or agents, has threatened and warned its employees against becoming members of or otherwise affiliating themselves with said Lodge 1528 of said Amalgamated Association, and in various other ways manifested its opposition to such membership or affiliation, and in various ways has encouraged its employees to become members of, or otherwise to affiliate themselves with, said Independent Union of Falk Employees.

The undersigned further charges that said unfair labor practices are unfair labor practices affecting commerce within the meaning of said Act.

Name and address of person or labor organization making the charge. (If made by a labor organization, give also the name and official position of the person acting for the organization.)

Meyer Adelman,
Field Director, Steel Workers Organizing Committee,
3026 Plankinton Arcade,
Milwaukee, Wisconsin.

Subscribed and sworn to before me this 24 day of May, 1937.

Walter J. Morgan,

Notary Public.

(Seal)

(Stamp) Received 2:30 May 28 1937 12th Region NLRB.

BEFORE THE NATIONAL LABOR RELATIONS BOARD

12th Region.

In the Matter of

The Falk Corporation,

and

Amalgamated Association of Iron,
Steel and Tin Workers of N. A.
Lodge No. 1528.

Case No. XII-C-57.

AMENDED CHARGE.

Pursuant to Section 10(b) of the National Labor Relations Act, the undersigned hereby charges that The Falk Corporation, 3001 W. Canal, Milwaukee, Wisconsin has engaged in and is engaging in unfair labor practices within the meaning of Section 8, subsections (1) and (2) (3) and (5) of said Act, in that

(1) The Falk Corporation, by its officers or agents, has dominated or interfered with the formation or administration of a labor organization or plan of employee representation among its employees known as the Independent Union of Falk Employees, and has contributed financial or other support to it;

(2) On or about December 31, 1936, the said Company by its officers and agents, did discharge one Anton Kinch, an employee of its Milwaukee Plant, for the reason that the said Anton Kinch had engaged in concerted activities with fellow employees for the purposes of collective bargaining and other mutual aid and protection and for the further purpose of discouraging other employees from becoming or remaining members of a labor organization of their own choice.

(3) The Falk Corporation, by its officers or agents, has threatened and warned its employees against becoming members of or otherwise affiliating themselves with Lodge 1528 of the Amalgamated Association of Iron, Steel & Tin Workers of North America, and in various other ways manifested its opposition to such membership or affiliation, and in various ways has encouraged its employees to become members

of, or otherwise to affiliate themselves with, said Independent Union of Falk Employees.

The undersigned further charges that said unfair labor practices are unfair labor practices affecting commerce within the meaning of said Act.

Name and address of person or labor organization making the charge. (If made by a labor organization, give also the name and official position of the person acting for the organization.)

Meyer Adelman,
Meyer Adelman,
Field Director Steel Workers Organizing Committee,
3026 Plankinton Arcade,
Milwaukee, Wisconsin.

Subscribed and sworn to before me this 2d day of August, 1937.

(Seal)

Fred J. Soddy,
Notary Public.

My Commission Expires July 27, 1941.

37 BOARD EXHIBIT NO. 5.

BEFORE THE NATIONAL LABOR RELATIONS BOARD.
(Caption—XIIC57 and XIIR85)

ANSWER OF RESPONDENT, THE FALK CORPORATION.

To the National Labor Relations Board:

Now comes The Falk Corporation, a Wisconsin corporation, and in answer to the complaint filed in the above proceedings by the National Labor Relations Board, admits, denies and alleges as follows:

1. Answering paragraph 1 of said complaint, respondent admits each and every allegation therein contained.
2. Answering paragraph 2 of said complaint, respondent admits each and every allegation therein contained.
3. Answering paragraph 3 of said complaint, respondent admits each and every allegation therein contained.
4. Answering paragraph 4 of said complaint, respondent

denies that the unit described in said paragraph 4, for the purpose of collective bargaining, would insure to the employees of the respondent at the Milwaukee plant the full benefit of their right to self organization and to collective bargaining; denies that said unit would otherwise effectuate the policies of the National Labor Relations Act; and denies that said unit is an appropriate unit for the purposes of collective bargaining with the respondent.

38 5. Answering paragraph 5, respondent denies that the majority of the employees in the unit described in paragraph 4 have designated the Union as their representative for the purpose of collective bargaining with the respondent; denies that such designation has been made by signing of application cards and membership in said Union; denies that by virtue of Section 9 (a) of said Act, the Union is and has continuously been the exclusive representative of all employees, in said unit, for the purpose of collective bargaining in respect to rates of pay, wages, hours of employment and other conditions of employment.

6. Answering paragraph 6, respondent denies that it at any time was requested by said Union to recognize the said unit as the exclusive bargaining agency for all of respondent's employees as enumerated in paragraph 4, or of any other unit of employees; denies that it has ever refused to bargain collectively with said Union as the exclusive bargaining agency for all of its employees as above enumerated; denies that the employees of the unit described in paragraph 4 constitute an appropriate bargaining unit; denies that respondent has engaged in or is engaged in any unfair labor practices within the meaning of Section 8, subsection (5) of the National Labor Relations Act. Alleges that it has and is now bargaining collectively with such collective bargaining agency which had the exclusive legal right under the provisions of the National Labor Relations Act to bargain collectively.

7. Answering paragraph 7, respondent admits that on December 31, 1936, while engaged in operations at its Milwaukee plant, respondent by its officers and agents discharged one Anton Kinch; and, in that connection, respondent alleges that the discharge of said Anton Kinch was for a lawful cause.

39 Further answering paragraph 7, respondent specifically denies that the discharge of said Anton Kinch was for any of the purposes or reasons stated in said paragraph 7.

8. Answering paragraph 8, respondent specifically denies that it has refused, or that it does now refuse to reinstate said Anton Kinch for the reason that he engaged in concerted activities with other employees in the respondent's Milwaukee plant, for the purpose of collective bargaining and other mutual aid and protection; specifically denies that the respondent refused, or does now refuse to reinstate the said Anton Kinch for the reason of discouraging concerted activities on the part of other employees.

Further answering paragraph 8, respondent specifically denies that the discharge of said Anton Kinch, and the refusal to reinstate the said Anton Kinch, if any, would in any manner discriminate or is discriminating in regard to hire and tenure of employment of said Anton Kinch, or would discourage or is discouraging membership in the Union.

Further answering paragraph 8, respondent specifically denies that by the discharge of said Anton Kinch, and the refusal, if any, to reinstate said Anton Kinch, that it thereby engaged in and does now thereby engage in unfair labor practices within the meaning of Section 8, subsection (3) of the National Labor Relations Act.

9. Answering paragraph 9, respondent specifically denies that it, by its officers and agents, at any time, dominated, fostered, encouraged or interfered with the formation, enlistment of membership, or administration of a labor organization of its employees known as Independent Union of Falk Employees.

Further respondent specifically denies that it did and does now contribute financial or other support to a labor organization of its employees known as Independent Union of Falk Employees.

Further answering paragraph 9, respondent, specifically denies that it, by its officers and agents, at any time, engaged in, or is engaging in any act which did or does have the purpose, intent and effect of intimidating, coercing, restraining and interfering with the lawful exercise of the rights of respondent's employees, guaranteed in Section 7 of the National Labor Relations Act.

Further answering paragraph 9, respondent specifically denies that it has and does now violate Section 7 of the National Labor Relations Act, and specifically denies that it has engaged or is engaging in unfair labor practices within the meaning of Section 8, subsection (2) of said Act.

10. Answering paragraph 10, respondent specifically denies that it engaged in or has engaged in any acts set forth in paragraph 9; specifically denies that it has refused to reinstate the said Anton Kinch; specifically denies that it dominated or interfered with the formation or administration of the labor organization known as Independent Union of Falk Employees; specifically denies that it refused to bargain collectively with the lawfully designated representative of its employees; specifically denies that it did interfere with, restrain, coerce, or is interfering with, coercing or restraining its employees in the exercise of their rights guaranteed in Section 7 of the National Labor Relations Act; and, specifically denies that it by any act whatsoever did engage in or is now engaging in unfair labor practices within the meaning of Section 8, subsection (1) of the National Labor Relations Act.

11. Answering paragraph 11, respondent specifically denies that it has engaged in any activities which have a close, intimate and substantial relation to trade, traffic and commerce among the several states, and which have led and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

12. Answering paragraph 12, respondent specifically denies that it has engaged in any conduct constituting unfair labor practices affecting commerce within the meaning of Section 8, subsections (1), (2), (3), and 5, and Section 2, subsections (6) and (7) of said National Labor Relations Act.

Further answering said complaint, respondent says that the complaint of the National Labor Relations Board against The Falk Corporation, respondent herein, should be dismissed.

The Falk Corporation,
By Harold S. Falk,
Vice-President.

State of Wisconsin, }
Milwaukee County. } ss.

Harold S. Falk, being first duly sworn, on oath deposes and says that he has read and knows the contents of the above and foregoing answer, and that the same is true to his own knowledge, excepting as to matters therein alleged upon information and belief, and as to such matters believes it to be true; that the reason this verification is made by this affi-

ant, is that the respondent is a corporation and this affiant an officer thereof, to-wit: its Vice-President; that the source of his affiant's knowledge, information and belief is the general conduct of the affairs of the corporation with reference to matters contained in the answer.

Harold S. Falk.

Subscribed and sworn to before me this 12 day of August, 1937.

(Seal) Marguerite M. Baker,
Notary Public, Milwaukee Co. Wis.

My comm. expires Oct. 20, 1940.

42 Endorsed: Before the National Labor Relations Board.
(Caption—XIIC57 and XIIR85). Answer
of The Falk Corporation. Lamfrom, Tighe, Engelhard &
Peck, Attorneys and Counselors at Law, 1416-1427 Bankers
Building, 208 East Wisconsin Avenue, Milwaukee, Wis.

493 OFFICIAL REPORT OF PROCEEDINGS.

Filed June 30, 1938.

U. S. C. C. A.—7.

Frederick G. Campbell, Clerk.

26 *Proceedings Before National Labor Relations Board.*

496 BEFORE THE NATIONAL LABOR RELATIONS BOARD.

(Caption—XII-C-57 and XII-R-85)

Room 409 Milwaukee County Courthouse,
Milwaukee, Wisconsin,
August 16th, 1937.

The above-entitled matter came on for hearing, pursuant to notice, at 10 o'clock A. M.

Before:

James C. Batten, Trial Examiner.

Appearances:

Robert R. Rissman and S. G. Lippman, Attorneys, on behalf of the National Labor Relations Board.

A. G. Goldberg, 511 Warner Building, Milwaukee, Wisconsin, appearing for International Union of Operating Engineers, Local 311.

Giles F. Clark, of Alexander, Burke & Clark, 110 East Wisconsin, Milwaukee, Wisconsin, appearing for Independent Union of Falk Employees.

Lamfrom, Tighe, Engelhard & Peck, by Mr. Leon B. Lamfrom and Mr. A. J. Engelhard, appearing for The Falk Corporation.

497 Proceedings.

Trial Examiner Batten: Gentlemen, are we ready to proceed?

Mr. Rissman: I think so.

Trial Examiner Batten: Before we proceed; I would like to advise all the parties that the Board's reporter makes the only official transcript of these proceedings, and the citation to pages and arguments based upon the record will recite the official transcript in all references to the record.

The Board will not certify any transcript other than its official transcript for use in any court or litigation.

Now, there is a matter which often arises in these hearings, and that is the so-called "off the record" discussions. I wish to advise at this time that the reporter will not take down argument with respect to motions or rulings, but if counsel at any time desire their argument to be included, if

they will just so state, the reporter will be glad to include them.

Now, that does not mean that the grounds which are given by counsel for the motion or objection, or with respect to rulings will not be included. I am referring only to general argument so that if at any time you desire that in the record, if you will just so state, they will be included.

498 Is there any objection to such procedure?

Mr. Lamfrom: That is perfectly satisfactory to the Falk Corporation.

I have ordered on behalf of The Falk Corporation a transcript from the official reporter, and without any discourtesy to anybody I have asked our own court reporter also to be here to take down the proceedings for us, because we are used to handling cases sometimes on a daily transcript.

I take it that is agreeable.

Trial Examiner Batten: Well, as I say, the only restriction is, the official transcript and the one certified by the Board and the one to be used in all proceedings is the one taken by the official reporter.

Mr. Lamfrom: I understand that perfectly, and this is merely for our own convenience.

I told Mr. Rissman upon payment to us of 97 cents per folio he may inspect it.

Mr. Rissman: I did not accept the offer.

Mr. Lamfrom: I may reduce it.

Trial Examiner Batten: Are you ready to proceed?

Mr. Rissman: We have an intervening petition from the Independent Union but I don't see counsel here this morning.

Mr. Lamfrom: We have here such petition and I take it that it may be advisable to wait just a few minutes.

Trial Examiner Batten: Might I ask, have the persons 499 desiring to intervene filed with the Board their petition?

Mr. Rissman: Yes, Mr. Examiner, they have, and I intend to introduce the petitions as an exhibit, but I have also advised those persons to renew their motion before you this morning.

Trial Examiner Batten: Perhaps we had better wait a few minutes.

(A short recess was taken.)

Trial Examiner Batten: I believe we are ready to proceed, gentlemen.

Now, are the attorneys here representing the interveners?

Mr. Rissman: They are, Mr. Examiner.

Trial Examiner Batten: We will proceed then.

Mr. Rissman: If the Examiner please, this is a proceeding in Board's Case No. XII-C-57 and Case No. XII-R-85, on a petition and charge filed by the Amalgamated Association of Iron, Steel and Tin Workers of North America, Lodge No. 1528.

I shall not state the issues involved; that shall become apparent, I hope, from the testimony and from the documentary evidence introduced.

At this time I wish to offer several Board's Exhibits. I offer as—

Mr. Lamfrom: May I interrupt Mr. Rissman, just a 500 moment?

Would it not be better to have these intervening petitions dealt with first?

Trial Examiner Batten: As I understand, he desires to introduce simply the formal exhibits which include the complaint, answer and petition of the people who desire to intervene.

Mr. Lamfrom: I beg your pardon, that is all right.

Mr. Rissman: As BOARD'S EXHIBIT NO. 1, I have—I shall ask to have marked for identification and offer in evidence the order directing an investigation and hearing in Case No. XII-R-85, being the representation case.

As BOARD'S EXHIBIT NO. 2, there is offered for identification and in evidence, a certified copy of an order of the National Labor Relations Board consolidating cases No. XII-R-85 and No. XII-C-57, the order further designating that James C. Batten act as Trial Examiner of these proceedings.

Mr. Lamfrom: What is that date?

Mr. Rissman: The order of the Board is dated August 14, 1935.

Mr. Lamfrom: Thanks.

Mr. Rissman: As BOARD'S EXHIBIT NO. 3 there is offered the original notice of hearing, original petition, original complaint, and original charges and amended charges filed by the Union; the notice of hearing indicating that copies 501 thereof have been received by Lodge No. 1528, the complaining union in this case, and the attorneys for the respondent.

There is also attached affidavit of service indicating that service of the complaint and accompanying exhibits was made upon the Independent Union of Falk Employees.

There is offered as Board's Exhibit No. 4, copy of a letter

addressed to Leon B. Lamfrom, Esq., attorney for the respondent in this case, extending the time to answer the complaint to August 12, 1937.

There is no objection to the offer of the copy?

Mr. Lamfrom: Not a bit.

Mr. Rissman: As Board's Exhibit No. 6—

Trial Examiner Batten: Is that 6 or 5?

Mr. Rissman: 5.

Trial Examiner Batten: Yes.

Mr. Rissman: 5, there is offered the original answer of the respondent The Falk Corporation filed with the Board on August 12, 1937:

As Board's Exhibit No. 6, there is offered the intervening petition of Independent Union of Falk Employees, filed in its behalf by its attorneys, Alexander, Burke & Clark.

As Board's Exhibit No. 7, there is offered copy of a letter of the National Labor Relations Board addressed to Alexander, Burke & Clark, advising them of the receipt of the intervening petition, granting the request to intervene and suggesting that the request for intervention be renewed before the Trial Examiner.

Is there any objection to the copy being offered? Mr. Clark has the original.

Mr. Engelhard: I haven't any objection.

Mr. Rissman: As Board's Exhibit No. 8 there is offered an intervening petition of the International Union of Operating Engineers Local 311, filed by its attorney, Joseph A. Padway.

Mr. Lamfrom: Has that petition been allowed yet, has the intervention been allowed?

Mr. Rissman: The Regional Director has advised Mr. Padway that his petition is allowed and suggested that the motion be renewed before the Trial Examiner. Under the rules all motions before hearing are made before the Regional Director, who passes upon them, but the Regional Director has passed upon it and also suggested that they be renewed before the Trial Examiner, so that he may pass upon them.

As Board's Exhibit No. 9 I offer copy of a letter of the National Labor Relations Board, or of the Regional Director, Twelfth Region, to the attorney for the International Union of Operating Engineers, acknowledging receipt of his intervening petition, stating that the petition and motion are granted, but suggesting that the petition and motion be renewed before the Trial Examiner.

30 *Proceedings Before National Labor Relations Board.*

503 May I ask the Examiner to rule upon the exhibits thus far offered? The other exhibits go another phase.

Mr. Lamfrom: While the exhibits of the Respondent are not quite as voluminous in number as the exhibits on the other side, I would like to introduce our preliminary exhibits so that we can get them all together. Will that be permissible?

Mr. Rissman: I think those would follow right in with these.

Trial Examiner Batten: Yes, you may do so.

Mr. Lamfrom: So, therefore, I will offer as The Falk Corporation Exhibit No. 1, an admission of service by the National Labor Relations Board, Twelfth Region, of three copies of the Respondent's answer under date of August 12th, 1937, and as Exhibit No. 2, an affidavit of Selma Werber, who is a stenographer in the office of Lamfrom, Tighe, Engelhard & Peck, attorneys for The Falk Corporation, of service by mail on the Amalgamated Association of Iron, Steel and Tin Workers of North America, and the Independent Union of Falk Employees—by registered mail, I should say, of the answer, copies of the answer.

The receipts of the parties mentioned are attached to the exhibit.

Trial Examiner Batten: If there is no objection they will be received.

504 Mr. Rissman: Those will be called Respondent's Exhibits Nos. 1 and 2?

Mr. Lamfrom: Yes.

(Thereupon the documents above referred to, were marked as RESPONDENT'S EXHIBITS NOS. 1 AND 2, and received in evidence.)

Mr. Rissman: As Board's Exhibit—

Trial Examiner Batten: Are there any remarks which counsel desire to make in behalf of the International Union of Operating Engineers with respect to their petition to intervene?

Mr. Goldberg: May it please the Examiner, we ask to be permitted to intervene, and we also have some charges of unfair labor practices against The Falk Corporation, which we would want to bring before the Board either in this hearing or in another hearing.

Now, in so far as we can have a hearing at this time, I think it would be well to have our charges brought in and

heard at this time, so that we will not have to have a separate hearing.

We also are interested in the bargaining unit. We have been negotiating with the company, and have signed up a number of people, practically every one of the men in the power plant, in the operating engineers; and we want the power plant to be a unit set up where those people employed in the power plant can choose their representatives for collective bargaining purposes.

Trial Examiner Batten: I would like to ask, are those charges of unfair labor practices set forth in your petition here?

Mr. Goldberg: They are not set forth, I haven't pleaded evidence of them.

I have merely set forth that there have been unfair labor practices, interferences in the formation of our union, and I spoke to Mr. Rissman—I did not want to delay the hearing, and he thought that if we set them forth at length that we might have to amend the complaint, whereas he thinks his complaint is sufficiently broad to cover our charges, and for that reason we haven't set them forth at great length.

Now, if the Examiner thinks they ought to be set forth at great length, I am willing to get an amendment to the petition, if you are not of the same mind as Mr. Rissman.

Trial Examiner Batten: I would like to hear from counsel for the respondent as to this particular matter.

Mr. Lamfrom: Well, I was just handed this petition this morning when I came into the room. I really haven't had time to go into it very carefully, but it does not seem to me that it is in proper form, from the standpoint of its informing the respondent—I assume the petition will be allowed—of informing the respondent of the facts.

You will notice that paragraph 3 on page 2, states that the petitioner has carried on organization work among the employees of The Falk Corporation, and within the jurisdiction of the petitioning union; that The Falk Corporation heretofore, and at the present time, has violated Section 8, sub-sections 1, 2, 3 and 5 of the National Labor Relations Act in its conduct of and toward its employees concerning the International Union of Operating Engineers, Local 311.

Now, that does not give us very much information as to what we have to meet here, and I take it that if the intervening petition on the part of this proposed intervenor here is

allowed that we should be and shall be given an opportunity to answer, so that there will be an issue here.

Trial Examiner Batten: My thought was this, if the Trial Examiner were to direct that the intervening petitioner, the—

Mr. Rissman: International Union of Operating Engineers.

Mr. Lamfrom: Have you a copy of that? If not, I will be glad to hand you this.

Trial Examiner Batten: I have it here, the International Union of Operating Engineers.

Would counsel for the respondent desire a continuance of this hearing for the purpose of answering, or is it your
507 thought that you would want a more specific statement with respect to these charges in order that you may answer?

Mr. Lamfrom: Yes, I think the latter is the position we take. It is impossible for me to intelligently deny this allegation, I don't know what it is all about.

Trial Examiner Batten: Is it the feeling of counsel for the respondent that we would proceed with the case, the Board's respects of the complainant's case and that a reasonable time be given the intervener to specify the charges and serve them on the respondent's counsel, and that you be given a reasonable time to answer.

Mr. Lamfrom: I would say that is just about right.

Trial Examiner Batten: Would that be satisfactory, counsel?

Mr. Goldberg: That is agreeable.

Trial Examiner Batten: The petition of the intervener, or the International Union of Operating Engineers, Local 311, will be permitted to intervene in this proceeding, and they will serve upon the respondent's counsel Tuesday morning at 9:30 o'clock a more specific statement of the charges contained in paragraph 3 of the intervening petition, and the respondent's counsel will have until Wednesday morning at 9:30 o'clock to submit an answer thereto.

Now, I believe there is another petition, is there not, on behalf—

508 Mr. Rissman: Of the Independent Union of Falk Employees.

Trial Examiner Batten: Of the Independent Union of Falk Employees.

Do you desire to make a statement with respect to that, Mr. Clark?

Mr. Clark: Only that this petition has been filed with the

Board and a letter written by Mr. Clark, informing us the petition and motion would be permitted, that is, the right to intervene has been granted with the recommendation that we renew it at the hearing, and we are now renewing it.

Trial Examiner Batten: The motion will be granted.

Mr. Rissman: Are Board's Exhibits Nos. 1 to 9 admitted in evidence?

Trial Examiner Batten: Yes, if there is no objection, Board's Exhibits Nos. 1 to 9, inclusive, will be received in evidence.

(Thereupon the documents above referred to were marked BOARD'S EXHIBITS NOS. 1 to 9, both inclusive, and received in evidence.)

Mr. Rissman: Board's Exhibit No. 10—

Mr. Lamfrom: With the reservation of course that they have such evidenciary effect as normally is attached to those kind of exhibits.

It is not assumed, and of course I am sure the Examiner would not rule, that the verified complaint purports to 509 prove anything.

Trial Examiner Batten: Well, I certainly have no such thought that the complaint proves anything.

Mr. Lamfrom: I thought counsel on the other side might.

Trial Examiner Batten: My understanding is that those exhibits are the formal exhibits necessary to be filed, showing the complaint, answer, petitions and formalities in connection with the hearing.

Mr. Lamson: They really make the record.

Trial Examiner Batten: That is right.

Mr. Rissman: As BOARD'S EXHIBIT NO. 10 I offer table No. 8 of the United States Department of Labor, Bureau of Labor Statistics, pamphlets entitled "Review of Strikes in 1936", this table setting out "Major Issues Involved in Strikes ending in 1936", the relevancy of it in this hearing being that it indicates that of all major issues of strikes in that year, there were 2,166 strikes, of which 1,083 were due to union organizing, recognition of unions, closed shops and discrimination, or 50.2 per cent of the total.

The exhibit shows, or goes to prove and substantiate the findings of Congress that the denial by employers to employees of their right of self-organization, and right of bargaining collectively does lead to labor disputes.

Mr. Lamfrom: The respondent will object to this exhibit,

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the reception of it, on the ground that it is incompetent, irrelevant and immaterial, and for the further reason, that the findings of Congress which are set forth in this legislation do not need any extraneous proof; they must be taken here for granted.

Furthermore, this is not relevant to the issue here. The issue here is, whether The Falk Corporation has been guilty of certain alleged unfair labor practices under the law as it exists, regardless of the background which Congress has itself set forth in the Act.

Mr. Rissman: The Exhibit—the document being an official publication of a department of the government needs no further proof of its authenticity than that statement, and is offered not for the issues involved in this case specifically, but to generally substantiate the findings of Congress. A court may not feel as Mr. Lamfrom does as to the effect the findings in the Act have.

Mr. Lamfrom: I don't care to extend this argument.

(Argument outside the record as directed.)

Trial Examiner Batten: It will be received for whatever value it has.

I don't believe the atmosphere will have any particular effect upon the Trial Examiner.

Mr. Lamfrom: I did not mean that, but the atmosphere of the case.

Trial Examiner Batten: Yes, I understand.

511 (Thereupon the document above referred to was marked BOARD'S EXHIBIT NO. 10, and was received in evidence.)

Mr. Rissman: As Board's Exhibit No. 11—

Mr. Lamfrom: By the way, Mr. Rissman, if I may interrupt, will you give me a copy of the statistical evidentiary matter?

Mr. Rissman: I will send you one from the office.

Mr. Lamfrom: Thank you.

Mr. Rissman: As BOARD'S EXHIBIT NO. 11, there is offered table 1, prepared by the Division of Economic Research of the National Labor Relations Board; the source of the information is the United States Department of Commerce, Bureau of Census.

Under the Bureau of Census, the industry in which The Falk Corporation is engaged is catalogued and classified "Foundry and machine products industry".

Table 1 indicates the rank of this industry in the United

States, the number of wage earners, the value of products set out first by the placing of the industry, of course, in each of those categories, and secondly, by the number of employees and the value in dollars and cents of the products.

The exhibit indicates that the industry ranks fourth in number of wage earners in the United States, and ninth 512 in the value of products, and that the machinery industry employs 216,439 people and was responsible for \$788,195,000 of their production in the year 1936.

This is Exhibit 11.

Mr. Lamfrom: That is objected to also, if the Examiner please, on the ground that it is incompetent, irrelevant and immaterial, and for the further reason that we have a stipulation with the National Labor Relations Board, a statement or a very complete statement of facts covering The Falk Corporation, its activities, its products, its interstate commerce status, the number of its employees, and all of those things, so that it seems to me that it would be of course entirely irrelevant as to what basis this industry comparatively occupies in the industries of the country. We are not concerned with that here.

I would always reiterate that all we are concerned with here is the charge of the gentlemen on the other side that The Falk Corporation indulged in unfair labor practices.

Mr. Rissman: If the Examiner please, the stipulation of which Mr. Lamfrom speaks—

(Argument ensued outside the record, as directed.)

Trial Examiner Batten: Of course, I don't assume we are going to accept evidence in this case on the basis that it is admissible if it does not do any harm to the respondent, 513 but in the Jones & Laughlin cases and other cases which have been passed upon by the Supreme Court and in which they have written opinions, reference has been made to facts and evidence of this type to show the importance of a particular corporation in the industry as a whole, and it will be received for whatever relevancy it may have.

Mr. Lamfrom: I do not, if your Honor please, desire to be technical, but I do desire to protect this record as we go along which it is my duty to do.

Trial Examiner Batten: You are fully entitled to do whatever you think is necessary in your capacity as an attorney.

(Thereupon the document above referred to, was marked as BOARD'S EXHIBIT NO. 11, and received in evidence.)

Mr. Rissman: As Board's Exhibit No. 12 there is intro-

duced Table No. 2 of the Division of Economic Research, National Labor Relations Board; the source is the United States Department of Commerce, Bureau of Census, and the exhibit indicates that the machinery industry in the state of Wisconsin ranks first in the number of wage earners, and fifth in the value of products; that in the machinery industry the value of the products for the time indicated was \$37,086,063.

I offer this in evidence as BOARD'S EXHIBIT NO. 12, Mr. Examiner.

514 Mr. Lamfrom: The respondent will object to the admission of that exhibit and assigns the same reasons as the objection to the other.

Trial Examiner Batten: It will be received, and I presume this is a good time to announce that it will not be necessary for counsel to take exceptions to the rulings. The record will show that exception is granted with respect to all adverse rulings.

Mr. Lamfrom: I understood that to be the practice.

(The document above referred to, was marked as BOARD'S EXHIBIT NO. 12, and received in evidence.)

Mr. Rissman: As Board's Exhibit No. 13—

Trial Examiner Batten: 14, isn't it?

Mr. Rissman: 13.

Trial Examiner Batten: 13?

Mr. Rissman: Yes, sir. (Continuing) —there is offered Table No. 3 of the Division of Economic Research, National Labor Relations Board, the same source as the previous exhibit, indicating that among the states manufacturing machinery Wisconsin ranks seventh in the number of wage earners and ninth in the value of products, and indicates that in the comparison the value of products manufactured was \$37,086,000.

Mr. Lamfrom: The receipt in evidence of that exhibit is objected to for the same reasons that were stated in respect to the previous exhibits.

Trial Examiner Batten: The same ruling, it will be received.

(Thereupon the document above referred to was marked as BOARD'S EXHIBIT NO. 13, and received in evidence.)

Mr. Rissman: As Board's Exhibit No. 14, there is offered Table No. 4, Division of Economic Research, National Labor Relations Board—

Mr. Lamfrom: What is this?

Mr. Rissman: Exhibit 14.

Mr. Lamfrom: Of the Labor Board, Economic Research of the Labor Board itself?

Mr. Rissman: And the source of information is the United States Department of Commerce, Bureau of Census, the exhibit indicating the sources of raw materials used in the machinery industry, indicating that 75.3 per cent of the steel plant raw material used comes from four states in the United States, those states being Illinois, Indiana, Ohio and Pennsylvania, and that the state of Wisconsin is responsible for less than one-tenth of one per cent of the production of steel, indicating that in the operations of its business the respondent is dependent for its raw materials on these other states.

Mr. Lamfrom: That is objected to for the same reason, and for the further reason that it is a compilation of the Labor Board itself. The last objection, it seems to me, that we are not being treated in accordance with the due process of law in this hearing, in which the Labor Board acts as hearer of facts and introduces its own compilation as evidence.

And for the further reason that all matters connected with the particular status of the flow of raw material as far as The Falk Corporation is concerned, is amply covered, as the Examiner will see, by the stipulation, and that it is simply, outside of the legal objection I have given, further unnecessarily encumbering this record.

Mr. Rissman: The compilation is made not by the Board but the United States Department of Commerce, Bureau of Census, that regularly engages in compiling such figures and statistics.

Trial Examiner Batten: The exhibit will be received in evidence.

(Thereupon the document above referred to was marked as BOARD'S EXHIBIT 14, and received in evidence.)

Mr. Rissman: As Board's Exhibit 15, there is offered a certified copy, certified to by Conway P. Coe, Commissioner of Patents, United States Patent Office, United States Department of Commerce, of the declaration and printed specification of the trade mark registered to the respondent, The Falk Corporation, indicating to make use of the name "Falk" on the products manufactured by the corporation, together with affidavit of Harold S. Falk, vice president of the corporation, acknowledging that the trade mark

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is used by the applicant-respondent in commerce among the several states of the United States and foreign nations.

Mr. Lamfrom: That is objected to, if your Honor please, for the same reasons, and for the further and other reason that the matter of interstate commerce is fully covered by the stipulation, and to pile up additional proof of that here is merely an accumulation of evidence which is entirely unnecessary.

Trial Examiner Batten: Of course the Trial Examiner not having seen the stipulation—

Mr. Lamfrom: I referred to it three or four times.

Trial Examiner Batten: It is quite impossible for the Trial Examiner to pass on these exhibits in the light of something which he has not seen nor heard the details of.

Mr. Rissman: I will make this offer—

Trial Examiner Batten: I believe at this point I will reserve my ruling on Exhibit 15.

Mr. Rissman: 15.

Trial Examiner Batten: On 15, until the exhibit,—the stipulation covering interstate commerce has been introduced.

Is that the next exhibit?

518 Mr. Rissman: Yes, sir.

Mr. Lamfrom: I am not responsible for the order of these exhibits.

(Thereupon argument ensued outside the record, as directed.)

Trial Examiner Batten: Will you introduce the stipulation?

Mr. Rissman: I now offer the stipulation entered into between The Falk Corporation, by its attorney, and the National Labor Relations Board, by its Regional Attorney, stipulating to a number of facts, figures and statements indicating that the respondent's business is dependent upon the sources of material outside the state of Wisconsin and depending for the sale and distribution of its materials to points outside the State.

The exhibit contains among other things a list of 50 cities in the United States where the respondent maintains district offices and representatives; a list of 6 cities in Canada where they maintain district offices and representatives, and indicates there are offices and representatives in two cities in Mexico, in the Philippine Islands, Hawaii, Cuba and South Africa.

I now offer BOARD'S EXHIBIT 16 in evidence.

Trial Examiner Batten: If there is no objection the exhibit will be received.

519 (Thereupon the document above referred to was marked as BOARD'S EXHIBIT NO. 16, and received in evidence.)

Trial Examiner Batten: Exhibit No. 15 will also be received.

(Thereupon the document above referred to was marked as BOARD'S EXHIBIT NO. 15, and received in evidence.)

Trial Examiner Batten: I wonder if I might ask again if anyone has an extra copy of the complaint.

Mr. Rissman: Yes, I have one.

Trial Examiner Batten: I would like to have an extra copy of the complaint.

Mr. Lamfrom: We will have one made for you.

Trial Examiner Batten: I think Mr. Rissman has one.

Does counsel for the interveners have an extra copy of the intervening petition, please, that I may have?

If you wish to remove your coats, gentlemen, feel free to do so.

Mr. Clark: I assume your Honor has no objection to my sitting here.

Trial Examiner Batten: No objection.

I assume it might be well if we determine the hours during this long proceeding.

Is there any objection to having these sessions from 520 9:30 to 12:30, and from 2 to 5?

Mr. Lamfrom: None on our part.

Trial Examiner Batten: The hours of the hearing will be from 9:30 to 12:30, and from 2:00 to 5:00.

Mr. Rissman: Mr. Falk, will you take the stand please.

HAROLD S. FALK, a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination.

Q. (By Mr. Rissman.) Will you state your name please?

A. Harold S. Falk.

Mr. Lamfrom. This contraption here—

(Discussion followed off the record, as directed.)

40 *Witnesses for National Labor Relations Board.*

Q. (By Mr. Rissman.) What is your business, Mr. Falk?

A. Manufacturer.

Q. What is your office in the Falk Manufacturing Corporation?

A. Vice president and Works Manager.

Q. How long have you been vice president and Works Manager, Mr. Falk?

A. I think since about 1921 or somewhere thereabouts.

Q. Were you affiliated and connected with the company prior to that time?

521 A. Yes.

Q. In what capacity?

A. Various capacities.

Q. What office did you hold immediately prior to your office of vice president?

A. General superintendent.

Q. And for how long were you general superintendent?

A. Oh, I don't know, it was a matter of eight or ten years perhaps.

Q. How long have you been affiliated with the Falk Corporation?

A. Well,—

Q. (Continuing.) Altogether, in any capacity?

A. I put in my first summer there in the summer of 1900 while I was still going to high school.

Q. Are you familiar with the stipulation that has been filed here and offered in evidence as Board's Exhibit No. 16, Mr. Falk?

A. Is that the one that was in answer to the questions that Mr. Lippman—

Q. That is right, indicating the nature of the business, products, and methods of manufacture.

A. Yes, sir.

Q. Those are substantially the methods under which the plant is operated.

522 A. Yes, sir.

Q. Your office is in the city of Milwaukee?

A. Yes, sir.

Q. Since you have been vice president and Works Manager for The Falk Corporation, has it been under your duties to handle all labor relations and labor matters that arise in the factory?

A. They are usually referred to me.

Q. Well, do you always handle those matters? I don't

mean small matters that a foreman might handle, such as supervising employees, but matters of policy and matters that affect the entire plant rather than any particular small division of the plant or group of employees.

A. Yes, that comes under my jurisdiction.

Q. Prior to 1933, prior to the enactment of the National Industrial Recovery Act, was there any form of representation among your employees?

A. We had a Works Council, but I do not recall the date of its organization.

Q. The Works Council was the one that was created in July or August, 1933?

A. Thereabouts, I am not just sure about that.

Q. After the N.I.R.A.

A. I am not sure about that.

Q. About four years ago?

523 A. I say I am not sure about the date.

Q. Before the Works Council, was there any form of employee representation in your plant?

A. No.

Q. Were there ever any requests made by any labor organizations or groups of employees for such representation?

Mr. Lamfrom: When?

The Witness: No.

Q. (By Mr. Rissman). At any time prior to the Works Council. At any time prior to 1933, was there ever any stoppage of work in your plant due to labor disturbances or labor difficulties?

A. Prior to 1933 you said?

Q. Yes.

A. The only one I recall was in 1906.

Q. You are referring now to General Molders strike?

A. Yes.

Q. In Milwaukee at that time?

A. Yes.

Q. How did that affect the production in your plant?

A. Well, it was reduced for a time but we operated shortly after that and gradually got our production back. I cannot tell you just how—

Q. Between the period 1906 to 1933, there were no labor disputes and labor disturbances at all in your plant?

524 A. No.

Q. Following the 1906 strike of the moulders union, and up to 1933, the time the Works Council was created, were

you ever requested by any labor organization or group of your employees to bargain with them collectively?

A. No.

Q. Were there ever any grievances or any demands presented to you by any labor organizer, labor union or group of employees acting collectively prior to the Works Council?

A. That is a rather involved question, isn't it?

Q. Well, I will break it down.

A. If three people came and asked me a question, I might say yes, but if you ask me definitely whether there was a labor organization, I would have to answer No.

Q. Well, did any group of employees come to you as a committee representing workers in your plant?

A. No.

Q. Do you know and can you tell us if any of the labor organizations in Milwaukee, the Machinists' Union, Moulder's Union, Blacksmiths' Union, or any other labor organization in this city ever attempted to organize your employees?

A. I don't know.

Q. Do you know if there were ever any leaflets or cards distributed around your plant inviting the men to join a labor organization?

525 Mr. Lamfrom: Now, when?

Q. (By Mr. Rissman) Prior to 1933.

A. I don't know.

Q. Did you ever see any such leaflets or cards?

A. I don't recall having seen them.

Q. What brought about the inauguration of the Works Council?

A. I presume the N.R.A. probably did.

Q. The enactment of Section 7(a) of the N.R.A.?

A. I imagine so.

Q. What was the specific action of The Falk Corporation that brought about the establishment of the Works Council?

A. I don't remember that.

Q. Did you as vice president and Works Manager participate in the organization of the Works Council?

A. In what way?

Q. In any way.

A. I think I once suggested that they organize such an organization.

Q. To whom did you suggest it, and in what manner did that suggestion take place?

A. I think to a group of our employees in the plant.

Q. Is that the—you refer now, Mr. Falk, to the occasion when you spoke to a group in the machinshop at the 16 foot boring mill?

A. That is what I am thinking about, yes.

526 Q. About how many employees were assembled there, approximately?

A. Well, if I were to guess I would say about three hundred.

Q. Do you recall what you said to them at that time?

A. No, I do not.

Q. The exact language is not necessary.

A. I mean I don't recall the substance of it.

Q. Let me refresh your memory.

Didn't you at that time recommend to the employees that in view of the law they should have some type of representation plan and that the best and most effective method of organization for them would be one where they could choose their own representatives in the shop.

A. Substantially that I think is right.

Q. And you advised them it would be inadvisable for them to choose the outside labor organizer, referring particularly at that time to the organizer of the Metal Trades Division of the Milwaukee Federated Trades Council?

A. I think that was substantially correct.

Q. Do you recall at that time you told them if they would elect or vote for these outside labor representatives the company would not deal with them and it would rather throw away the key to the plant than to deal with the labor organizers?

527 A. No.

Q. What did you say?

A. I think I told them we would not run a closed shop.

Q. Did you tell them anything further?

A. I don't think so.

Mr. Lamfrom: When was this, Mr. Rissman?

Mr. Rissman: This was in July or August 1933, after the enactment of the N. I. R. A.?

The Witness: I don't remember.

Q. (By Mr. Rissman) Well, the N. I. R. A. was enacted in June 1933?

A. I have no way of remembering that date.

Q. Was there—after that announcement of course the Works Council was created?

A. As I recall, yes.

Q. Did you make any other announcement or speech to the employees in the plant in that respect at that time?

A. Not that I recall.

Q. Who, if you know, prepared the by-laws and constitution of the Works Council?

A. I don't know.

Q. Were you ever consulted with reference to the drafting of the by-laws?

A. It was discussed in meetings at various times, although I had very little to do with it.

528 Q. Meeting with whom, Mr. Falk?

A. With the men on the Council.

Q. Meetings at which you were present?

A. Sometimes I was present, and sometimes I was not.

Q. What assistance, if any, did you or the company give to the formation of the constitution and by-laws of the Works Council?

A. What assistance?

Q. Yes.

A. Very little as I recall; I don't recall having had anything to do with it particularly.

Q. How were the representatives of the Works Council chosen?

A. By ballot.

Mr. Lamfrom: Now, I submit we can probably shorten that a good deal, Mr. Rissman, although its relevancy I do not see, by introducing a copy of the Works Council by-laws and constitution, and then you will have the whole thing.

Mr. Rissman: I don't think the constitution and by-laws are material.

I thank Mr. Lamfrom for his suggestion.

Mr. Lamfrom: Well, they are the best evidence; there is a copy here if you gentlemen want it.

Mr. Rissman: I am not asking about the constitution and by-laws; I am asking how they were created. The constitution and by-laws certainly do not indicate that.

529 Mr. Engelhard: The constitution and by-laws indicate how the Works Council—

Trial Examiner Batten: You may proceed, Mr. Rissman.

Q. (By Mr. Rissman) How were the management representatives chosen?

A. I don't remember that.

Q. Who chose them?

A. I don't know.

Q. How?

A. I don't know.

Q. Weren't they appointed by you, Mr. Falk?

A. They may have been.

Q. Did you attend any meetings of the Works Council after it was created?

A. Whenever I was invited to attend, yes.

Q. In what capacity did you attend them?

A. As management representative.

Q. Who were the other management representatives in the beginning?

A. I think Mr. Green was one.

Q. Who is Mr. Green?

A. Superintendent of our machine shop.

I think Mr. Henderson was another. Mr. Henderson is superintendent in the Erecting Shop. I believe Mr. Holub was one.

530 Q. Is Mr. Holub still employed by the company?

A. Yes, he is the man in charge of mechanical maintenance.

Q. How long has Mr. Holub been employed by the company?

A. Oh, over 30 years.

Q. Was Mr. Hyder a management representative?

A. No, as I recall, Mr. Hydar was simply in there as secretary.

Q. The secretary had no vote?

Trial Examiner Batten: That is, he was secretary of the Works Council or secretary of Management?

The Witness: He simply acted as secretary.

Q. (By Mr. Rissman) He was personnel manager of the plant?

A. Yes, sir.

Q. And secretary of the Works Council.

A. Yes.

Q. Can you tell us, Mr. Falk, the method employed by the Works Council, and participated in by the company in taking up matters of interest to the employees, the so-called matters of collective bargaining?

A. Well, I think their general procedure was to have a meeting of the shop representatives without any management representatives the day before they had their regular meeting.

Q. Wasn't that employed later on? Originally, was it

not, that there was a meeting of all representatives of 531 employees and management, and then later at the request of the employees they were granted a separate meeting.

A. That is right.

Q. Go ahead.

A. Well, that is about all there is to it, isn't it?

Q. Well, you haven't completed it. You have told us how they held their meetings.

How were matters taken up with Management, the matters presented at these joint meetings of employee and management representatives?

A. Well, they were—well, when they decided in their meeting on the things that they wanted to discuss, they brought them up and they were discussed in the meeting and presented to management, and then management made its answer.

Q. In what form were they presented to management?

A. Usually verbally as I recall it.

Q. Let's assume that at a meeting of the Works Council a request is made and discussion had upon the advisability of certain piece work rates; that matter is discussed at the meeting of employee and management representatives, and it is then presented to the management by whom?

A. By the representatives on the Council.

Q. When you say "to the management" that ordinarily meant you as vice president and Works Manager?

A. It came to me for final decision, yes, sir, when it 532 was something the management representatives in the Council won't take responsibility for.

Q. We will assume now in this question that these matters are of the type that had to be referred to you. Then what was the next step taken by management in the consideration of the proposal advanced by the representatives?

A. Well, it was discussed.

Q. With whom?

A. Well, sometimes I would discuss it with Mr. Herman Falk, and sometimes I would discuss it with various superintendents in the different departments.

Q. There was a general discussion with the management or company officials?

A. Yes, sir.

Q. Or supervisors.

A. Yes, sir.

Q. And you would indicate your decision and then submit it to the Works Council?

A. That is right.

Q. How long was the Works Council in operation in the plant from the time of its organization in 1933?

A. Something over three years I guess.

Q. Until April 8th, 1937.

A. I don't know.

Q. Is that correct?

533 A. I don't know.

Q. Well, wasn't the last—what was the last time that you had anything to do with the Works Council as a Works Council?

A. I don't know, I think the records will show it; I don't remember what date.

Q. My records don't show when you last had anything to do with it. When was the last time you had anything to—when was the last time you had to make any decision to be presented to the Works Council, do you recall?

A. I can't recall the date.

Q. When was the last time you had any meeting with the Works Council, or any of its representatives as such?

A. I can't recall the date.

Q. Can you recall, Mr. Falk, if there were any outstanding matters taken up by the Works Council with management directly affecting the employees?

A. I think there were probably a good many of them.

Q. Do you recall of any that were of major significance, either hours, wages, type of work, method of workmanship, or anything?

A. Well, I know those things were discussed, but I certainly haven't got a very clear idea of when or how or what they were.

Q. You state that nothing stands out in your mind of
534 primary significance as an accomplishment of the Works Council in its dealings with management?

A. Well I think there were some, but I don't recall them now.

Q. Do you recall, Mr. Falk, any result of activity between the Works Council and the company that would not have resulted in the absence of the Works Council?

Mr. Lamfrom: I object to that, if your Honor please, as leading, and calling for a conclusion. I don't think any man can answer that question.

Trial Examiner Batten: Well, he may answer it if he can.

Mr. Lamfrom: If he can.

The Witness: I don't understand the question.

Trial Examiner Batten: Read the question please.

(The question was read.)

The Witness: I don't think I can answer it.

Q. (By Mr. Rissman). Let me ask you this: Did the Works Council do anything for the employees that the company itself would not have done?

A. The company did it ultimately; if it was done at all the company would do it, wouldn't it?

Q. The Works Council did nothing but draw the company's attention to something?

A. I would not say that. The Works Council made 535 their requests and if there was any way we could accede to those requests we did it.

Trial Examiner Batten: Will the reporter read the previous question?

(The record was read.)

Q. (By Trial Examiner Batten) In other words, if the same grievances had come to your attention prior to the time you had the Works Council, would the employees receive the same consideration and treatment that they received as a result of the Works Council?

A. I think so, yes sir.

Q. (By Mr. Rissman) So that for the three years or four years, whatever it was, that the Works Council existed at your plant ostensibly representing employees, it accomplished nothing that the company itself would not have been willing to do without the Works Council?

A. Except that I think there were a good many things that came up through the Works Council that might not have come up had they not had such an organization.

Q. Did the company—and by the company, I mean necessarily its officials—feel that the Works Council was an effective and appropriate method of representing employees?

A. Yes.

Q. Did the company and its officials feel, and do they now feel, that the Works Council was the best type of employee representation for employees in a plant like The Falk Corporation?

A. I think I would answer that question, Yes.

Q. How often were company representatives or employees elected to the Works Council?

A. I don't know.

Q. Do you know if there were any employees in your plant, any group of employees or any particular department employees in your plant, who were not represented on the Works Council?

A. No, I do not.

Q. Well, do you know if the office employees and draftsmen were represented?

A. I do not think they were.

Q. The Works Council was limited to shop employees rather than office employees?

A. I don't know whether they were limited, but I do not think the draftsmen had representatives as far as I remember.

Q. As far as you remember, did the office have representatives?

A. No.

Q. Did the power house have representatives?

A. Yes, sir.

Q. And outside yard workers?

A. Yes, sir.

Q. Mr. Falk, you have testified that in your opinion 537 and in the opinion of the company, the Works Council provided the most effective vehicle of collective bargaining for the employees in a corporation like yours.

Can you tell us why you feel that way and why you think that is so?

A. Because we dealt directly with our own people.

Q. What other advantages, if any?

A. I don't know.

Q. Do you feel that your employees can be represented more effectively by a labor organization particularly designed for that purpose and whose main interest is to represent the employees?

A. No.

Q. Rather than by the Works Council.

A. No, I do not.

Q. Why not?

A. Well, I think our own people know more about the conditions under which they are working than some outside labor organizer does.

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Q. Do you think that your own people as members of an outside labor organization like the union in this case could more effectively represent the employees in the shop or do you think they could do a better job in an organization like the Works Council?

A. The latter.

538 Q. What distinction is there, assuming that in both cases your own employees were representatives?

A. Because they are not under the influence of an outside source.

Q. But they are under the influence of the company?

A. I would not say that.

Q. Under what influences are they in the Works Council?

A. Pardon?

Q. Under the Works Council plan.

A. They are certainly not under the influence of the company.

Q. Are they under any influences?

A. None that I know of.

Q. In what way in your mind could outside influences be harmful?

A. Because I don't think these outside organizers know what are the conditions under which our men work or how we have treated our men.

Q. Are there any other reasons?

A. I don't think of any just now.

Q. Assuming that an outside organizer is the representative of a labor union about whose integrity there is no question, could be advised of the situation in your plant by your employees, could he or could he not more effectively bargain for them in dealing with the company?

539 A. I don't think so.

Q. Then the Works Council.

A. I don't think so.

Q. Is it not true, Mr. Falk, that one of the main reasons and—strike that.

It is not true, Mr. Falk, that one of the main reasons an employer—to be specific, the Falk Corporation, objects to an outside union is the fear, unfounded perhaps, of the employer that the outside union leads to a closed shop?

A. I think that is probably true, yes.

Q. How?

A. I think that is probably true, yes.

540 Q. If the employer could be guaranteed that the outside union would not lead to a closed shop do you think you would still object to it?

A. Yes, sir.

Q. When I say "employer" I refer to the Falk Corporation.

A. I do.

Q. If that one fear, so-called, was removed what objection will there be to the outside union?

A. What fear are you talking about now?

Q. The fear of a closed shop.

A. I would still have the same objection I had before.

Q. What has been, and what is now the policy of The Falk Corporation with reference to dealing with outside labor organizations?

Mr. Englehard: Now, I submit, your Honor, that is rather a double-barreled question, what has been and what is now.

Will you break that up?

Mr. Rissman: If there has been any change the witness may indicate.

The Witness: I think our labor policy is pretty clearly defined in a statement that we posted on some date in April, in which we quoted the president of the United States in a statement that he made, as I recall, in 1934, as to the attitude of the automobile industry, and if that may be
541 submitted in answer to your question I would say that that was our labor policy.

That was about the only thing we have ever posted in writing.

Q. (By Mr. Rissman) Does that statement as posted indicate the policy of the company at the present time with reference to outside labor organizations?

A. Yes.

Q. What was your answer?

A. Yes.

Q. What was the date of that statement?

A. I don't remember the date; it was sometime in April as I recall.

Q. 1937?

A. Yes, sir.

Q. After the decision of the United States Supreme Court upholding the validity of the National Labor Relations Act?

A. Well, I don't know the date of the Labor Relations Act, nor do I happen to know the date of this particular announcement, so that I can answer that.

Mr. Rissman: Well, Mr. Lamform is look for it.

Q. (By Mr. Rissman) Is that policy, Mr. Falk, different in any respect from the policy previously posted by the company up to that time?

A. I think it is, yes.

542 Q. I hand you herewith Board's Exhibit No. 17—

Mr. Lamform: Let the record show that you received that from my hands, Mr. Rissman.

Mr. Rissman: I certainly will.

Q. (By Mr. Rissman) I hand you Board's Exhibit No. 17 for identification and ask you if that is the statement of policy you referred to a few moments ago?

A. Yes, sir, that is it.

Q. And that is a statement of policy dated April 21st, 1937 addressed to all employees, reciting to them the position of the President of the United States of May 25th, 1934.

Can you tell us, Mr. Falk, why the position of 1934 was chosen rather than the position of the government of 1937 as announced by the Supreme Court in the case upholding the validity of this Act?

Mr. Engelhard: Now, before you answer that question, Mr. Falk, I object to the form of the question because it assumes that there is a different position taken by the government from that which is disclosed in the quotation taken from the President's speech of 1934.

Trial Examiner Batten: Will the reporter read the question.

(The question was read.)

Mr. Engelhard: If the Examiner please, the difficulty is, that there is implied in this question that there is a
543 difference between the President's announcement in 1934 and the government's position because of the Supreme Court's decision of April 12th; it is implied that there is a difference.

I don't think it is a fair question to put to a man who is not versed in law.

Trial Examiner Batten: I don't think there is anything implied in the question that the government's position might or might not be different after the Act was passed than it was at that time.

I think it is a fair question to ask Mr. Falk why he chose the statement of the President dated May 25th, 1934 rather than a reference to the President's attitude subsequent to the upholding of the National Labor Relations Act which was in April 1937.

Mr. Engelhard: Well, that assumes that the President's position is different.

Trial Examiner Batten: No, not necessarily.

Mr. Rissman: May I have a ruling on the objection?

Trial Examiner Batten: Read the question again, please. (The question was re-read.)

Trial Examiner Batten: You may answer.

The Witness: Well, it seemed that to express the sentiment, including that in the state of policy, I had intended to show that we were abiding by the law. That was the purpose of it, and the statement appears to express it rather definitely.

Q. (By Mr. Rissman) Did you make any inquiry, Mr. Falk, to determine whether the President's statement of May 25th, 1934 was in accord with the law as announced by the Supreme Court in April, 1937?

A. No, I did not.

Q. You did not?

A. No.

Q. Then how did you know that statement was the law?

A. I didn't say I knew it was the law. I said it seemed, that was the impression we got by the law.

Trial Examiner Batten: I believe Mr. Falk's answer was, it seemed to him it conveyed the idea of the law.

Mr. Rissman: He also stated he had not made inquiry as to whether or not it was the law.

Mr. Engelhard: Who could explain the law better than the President of the United States.

Q. (By Trial Examiner Batten) Mr. Falk, did this statement of the President of May 25th, 1934 have any reference at all to the National Labor Relations Act?

A. Not that I recall, now.

Trial Examiner Batten: I believe we will recess, gentlemen for ten minutes.

(A short recess was taken.)

545 Trial Examiner Batten: All right, we will proceed, gentlemen.

Mr. Rissman: May I have the last question and answer read.

(The record was read.)

Q. (By Mr. Rissman) You say that was the first time the company posted a statement of policy?

A. Yes, I think, I did.

Q. And what prompted the posting of the statement of policy at that time?

A. Just to let the men know what our attitude was. It had never been published before or put up in printed form.

Q. Had the company's attitude ever been announced before?

A. No, not publicly.

Q. Had the company ever written any letters to employees indicating what its attitude was in this connection?

A. Just what are you getting at now? I don't just exactly understand what you are referring to.

Trial Examiner Battern: Read the question, please.

(The question was read.)

The Witness: Not to all employees.

Q. (By Mr. Rissman) To which employees?

A. To the 15 men in the powerhouse.

Q. When did you do that?

A. I don't recall the date of that, somewhere in April.

546 Q. 1937?

A. Yes.

Q. Why was it necessary to write to the employees in the powerhouse stating your position?

A. Because the union had sent out some postal cards which I believed carried a misstatement.

Q. Which union?

A. The A. F. of L., unit of Operating Engineers.

Q. You are referring to Local 311?

A. Yes.

Q. Of the International Union?

A. Yes.

Q. I hand you herewith Board's Exhibit No. 18 for identification.

Mr. Lamfrom: I would like to refresh the witness' memory. This is a communication which originally called for this letter, just so you have that before you, Mr. Falk, when you testify.

Q. (By Mr. Rissman) Mr. Lamfrom has handed to you that postal card you referred to?

A. Yes, sir.

Q. Together with the letter written by the company?

A. Yes.

Q. I hand you Board's Exhibit No. 17 for identification, and ask you if that is the letter you referred to?

547 Mr. Lippman: Exhibit 18.

Mr. Rissman: Exhibit 18.

Mr. Lamfrom: Exhibit 17 is the April 21st statement.

The Witness: Yes, that is it.

Q. (By Mr. Rissman) This is the letter addressed to the employees in the powerhouse dated April 16th, 1937, signed by the Falk Corporation indicating it was written by Harold S. Falk.

A. That is right.

Q. What was there in the postal card other than your impression, that made necessary the statement to the employees, "I wish to make our position perfectly clear to you:

"1. We are not in favor of a union."

A. This gentleman indicated in the postal card that he had an interview with me, and he says, "Only the hours that you men wish to work remain to be settled."

That I say is entirely a false statement.

Q. Did you have an interview with Mr. Kingsland?

A. I did.

Q. Mr. Kingsland is representative of Local 311, is that right?

A. He told me that, yes, sir.

Q. What were the matters agreed upon between you and Mr. Kingsland?

A. We agreed upon nothing.

548 Q. What were the matters conferred about or discussed, Mr. Falk?

A. He asked me whether I would recognize him as bargaining agent for the powerhouse employees.

Q. And what did you say?

A. I told him that before making any arrangement like that I would want to know how the men in the powerhouse felt about it.

Q. What did you have in mind?

A. Just exactly that, how the men felt about it, whether or not they wanted this unit to be their representative.

Q. You mean this union?

A. This union.

Q. Did you suggest to Mr. Kingsland that a vote could be taken among the powerhouse employees so that they could indicate their choice?

A. Not to Mr. Kingsland, not that day, not the first meeting.

Q. What was said between you and Mr. Kingsland further on that subject?

A. Very little else, except when I asked him how many men he had, he said he had 19—had 17 out of 19, and we happened to have 15 in the powerhouse. I asked him to show me a list of who they were, and he said he had forgotten.

I said, "Well, suppose you check up your list and we
549 will have a meeting some time later," which we did in Mr. Lamfrom's office.

Q. Did you send out this letter between the date of your first visit with Mr. Kingsland and the second visit with him?

A. Between those two?

Q. Yes.

A. Yes, because t' s postal card was received in between those dates.

Trial Examiner Batten: May I see the postal card?

The Witness: Yes, sir.

Q. (By Mr. Rissman) I repeat again, Mr. Falk, what is there on the postal card that made it necessary for you to say in this letter to the employees in the powerhouse, "We are not in favor of a union?"

Trial Examiner Batten: Might I ask, do you have any objection to the introduction of this postal card?

Mr. Lamfrom: No, sir, I was going to suggest it, Mr. Examiner.

Trial Examiner Batten: At this time, so that we have both of those matters in the record—

Mr. Goldberg: Let's see the postal card.

Mr. Lamfrom: I will guarantee it.

Trial Examiner Batten: Let me see it.

Mr. Goldberg: Yes, I will know it if I look at it.

550 Yes, that is the postal card.

Mr. Lamfrom: I suggest the postal card be attached to the letter.

Mr. Rissman: I will offer this as Exhibit No. 18, if the Examiner please.

Trial Examiner Batten: That will be 19.

Mr. Rissman: As Exhibit 19.

Mr. Lamfrom: And let it appear that is the postal card received by The Falk Corporation.

The Witness: Received by the man.

Mr. Lamfrom: By the man.

The Witness: That brought it to me.

Mr. Lamfrom: Correct, which preceded the sending of the letter which is Exhibit 17.

Trial Examiner Baten: 18.

Mr. Lamfrom: 18.

(Whereupon, the documents above referred to, marked respectively BOARD'S EXHIBITS NOS. 17, 18 AND 19, were received in evidence.)

Q. (By Mr. Rissman) To whom is that postal card addressed, Mr. Falk?

A. To Mike Trebetosky.

Q. Who is Mike Trebetosky?

A. He is an engineer on one of our steam derricks.

Q. Is he an employee in a supervisory capacity?

551 A. No.

Q. He is not?

A. No.

Q. Is he an employee at the powerhouse?

A. No.

Q. He is an engineer though, an operating engineer?

A. He is operating engineer on a steam derrick.

Q. How did you happen to get this postal card?

A. He brought it to me.

Q. Did you request it?

A. No, sir.

Q. Why did he bring it to you?

A. I don't know; he said he read it and asked me how about it.

Q. What did you say?

A. I told him substantially what I wrote in this letter, and I had several others brought to me besides.

Q. How many did you have brought to you altogether?

Q. (By Mr. Lamfrom) You mean, Mr. Falk, you had several postal cards brought to you by other employees in the powerhouse?

A. Yes, sir.

Q. (By Mr. Rissman) How many were brought to you altogether?

A. I don't remember.

Q. Approximately.

552 A. I haven't any idea.

Q. Five or six, do you know?

A. I don't know.

Q. Now, will you answer my question, and tell us what

there is on this postal card, Exhibit 19 for identification, that made it necessary for you to say in your letter of April 16th, "We are not in favor of the union?"

A. I think the inference on the card that—or, the statement on the card that "only the hours that you men wish to work remain to be settled" is an entirely—is entirely a false statement, and in contradicting that I made this statement as you have it on that letter.

Q. If the men in the powerhouse did use Mr. Kingsland and his organization as their representative for collective bargaining would your position with reference to that statement No. 1 be the same?

A. Yes, it would still be the same.

Q. So that although the choice of the employees for collective bargaining agency does not make any difference to the company, it still does not favor a union?

A. I think that is right.

Q. Is that your understanding of the obligation of the company under the National Labor Relations Act?

A. I do—

Mr. Lamfrom: Just a moment. I submit that question is not a proper question.

The obligation to the company under the National Labor Relations Act has nothing to do with the attitude of the company, as to whether or not it favors unions. It can favor a union or not favor a union and still comply with every obligation of the Wagner Act.

Mr. Rissman: I submit the company's attitude is not important if the company maintains that attitude among its officers and among its agents themselves, but the moment the company indicates to its employees that they are not in favor of a union, that attitude is highly significant in a proceeding of this kind.

Trial Examiner Batten: Read the previous question.

(The record was read.)

Trial Examiner Batten: I think the answer to the previous question is of such a nature I will permit him to answer this question.

Now, do you have the question?

The Witness: It is my understanding under the Act that as long as we stick to facts we are not overstepping our bounds.

Q. (By Mr. Rissman) Is it your understanding under the Act that an employer has the right to tell its employees

its position with reference to favoring or not favoring a labor union.

554 A. I think if they ask for it, yes.

Q. Which employees asked you if you favored or did not favor a union, which powerhouse employees?

A. This was one of them, and I have a couple of others, I don't recall who they are, though.

Q. Do you feel and do you know whether or not this statement "We are not in favor of a union" might have any effect upon employees in their choice of a labor organization to represent them?

A. I don't think it would.

Q. Why wouldn't it? Did you hear my question?

A. I thought I answered.

Q. I said, why wouldn't it.

Trial Examiner Batten: Will you read the question, please.

(The record was read.)

Mr. Lamfrom: I suggest you repeat the former question so that the witness gets the connection.

Trial Examiner Batten: The question, Mr. Falk, is why wouldn't the attitude—was that it?

Mr. Rissman: Let's have it read.

Trial Examiner Batten: Will you read the previous question.

(The record was re-read.)

The Witness: Well, I talked to most of the men out
555 at the powerhouse and we had a pretty friendly talk over it, so that we would know where—

Q. (By Mr. Rissman) Where—

Mr. Lamfrom: Let him finish. Finish your answer.

The Witness: And I think those men out there understood very clearly that if they chose to have Mr. Kingsland as their representative, that we would go along with them on it.

Q. (By Mr. Rissman) Where did you speak with them, and when?

A. About the plant.

Q. In the plant?

A. Sure.

Q. During working hours?

A. Yes, sir.

Q. Do you recall whether it was before or after this letter was sent?

A. , Both.

Q: Both?

A. Yes.

Q. At those request did you speak there, or was it your suggestion and idea to go out and talk to them?

A. Well, I always talk to our men.

Q. Please answer my question.

A. I don't have to be requested, I can go out and talk to them.

556 Q. Do you gather them all together?

A. No.

Q. Or talk with them individually?

A. I talked with them individually.

Q. Did you know at that time how many of them had chosen Mr. Kingsland's organization?

A. No.

Q. Did you inquire?

A. No. I inquired of Mr. Kingsland.

Q. Did you inquire of the men?

A. No.

Q. You were not interested?

A. Not particularly.

Mr. Lamfrom: I submit, Mr. Rissman, that if you give the rest of the statement of the 16th of April you would show perfectly clear what the position of the company was.

Mr. Rissman: The statement is in evidence and the Examiner will be able to see it.

Q. (By Mr. Rissman) In your conversation with the men in the powerhouse did you tell them that you were not in favor of a union?

A. I don't know; I did in this letter, but I don't know whether I did in my conversation.

Q. Were there ever any letters or notices sent out to employees of the company other than those in the powerhouse?

557 A. I don't know.

Q. Did you send any?

A. Not that I recall.

Q. And this statement, "We are not in favor of a union" was prompted, as you say, by what you call a misleading statement on the postal card?

A. I didn't say "misleading statement," I said, "a false statement," I think.

Q. A false statement.

A. Yes.

Q. Is this your position, "We are not in favor of the union," the same position you have with respect to employees in the plant other than the powerhouse?

Mr. Lamfrom: Do you understand that question, Mr. Falk?

The Witness: Yes.

Q. (By Mr. Rissman) If the employees of your corporation should choose an organization, a labor union to represent them for the purposes of collective bargaining and that unit was found to be appropriate by the Board would you deal with such a union?

A. Yes, sir.

Q. Have you in any way changed, the position of the company changed with respect to favoring or not favoring a labor organization?

A. I don't think so.

558 Q. What is the reason that you would deal with such a labor organization?

A. We are going to abide by the law.

Q. Has the position of the company with reference to the methods of collective bargaining been likewise changed by the law?

A. I don't know whether I understand exactly what you are driving at.

Q. The company bargained collectively with the Works Council?

A. Yes.

Q. Has the company changed its policy with reference to methods of collective bargaining from what it was when they bargained with the Works Council?

A. I should say substantially not, no.

Q. Then the method to be pursued by the company in bargaining collectively with an organization of employees is the same now as it was when you bargained with the Works Council?

A. I just don't know what you are getting at, I can't quite follow you there.

Q. You have indicated, Mr. Falk, that the policy of the company with reference to dealing with labor organizations has necessarily been changed because of a change in the law, is that right?

A. We were bargaining with our employees before that

law went into effect, through our Works Council in substantially the same manner that we would bargain with any other organization, as I understand it.

Q. In formulating the policy of the company with reference to collective bargaining what guides the company?

A. The law, I should say.

Q. Does the company depend upon any organizations for advice or suggestions as to the meaning and interpretation of the law?

A. Yes, I should say that we get communications from various sources.

Q. What are some of those various organizations?

A. Well, the National Manufacturers Association, National Founders Association, National Metal Trades Association, and some of them come from the Chamber of Commerce of the United States.

Q. Your company, The Falk Corporation, is a member of the National Metal Trades Association?

A. Yes, sir.

Q. For how long has it been such a member?

A. Well, for a good many years, but I don't know just how long.

Q. The National Metal Trades Association has been in existence for 37 or 38 years now. Were you one of the first members or did you come in sometime after that?

560 A. I cannot answer, I don't know that.

Q. But you are a member at the present time?

A. Yes.

Q. You personally are an officer of the local Metal Trades Association?

A. Yes, sir.

Q. What office do you hold?

A. Just now I am president of the local.

Q. How long have you been president?

A. I think three years.

Q. Did you hold any office prior to that time?

A. No, no official office; I was chairman of the apprentice committee for a good many years?

Q. What committee?

A. The apprentice committee.

Q. Are the policies and principles of the Metal Trades Association the same today as they were when you joined the Association?

A. I don't know, I don't know what they were when we joined.

Q. Do you know what they are today?

A. What do you mean, what are you referring to now?

Q. With reference to labor relations.

A. Well, I think they are very largely educational and constructive principles that they have been following for 561 the last 10 or 15 years, since I have had any part in it.

Q. The National Metal Trades Association in its bulletins and other correspondence advises employers on matters of legislation affecting labor relations?

A. Yes.

Q. And do you get their interpretations of the law as they see it?

A. That interpretation comes through counsel, yes.

Q. Are the counsel for the National Metal Trades Association Messrs. Fyffe & Clarke?

A. Yes, sir.

Q. Of Chicago?

A. Yes, sir.

Q. Who are their counsel locally?

A. They have no counsel.

Q. Do they depend upon these retained counsel in connection with their definition work for member organizations?

A. Not the Metal Trades Association as such, no.

Q. Do they recommend counsel to members of their Association?

A. No.

Q. The members of the National Metal Trades Association, Mr. Falk, are guided in their dealings with employees and other matters, by the declaration of principles of the Association, are they not?

562 A. Only if they care to abide by them.

Q. Is it not obligatory upon the members to abide by the declaration of principles?

A. No, sir.

Q. Isn't there a penalty of some sort or another upon any member who fails to abide by the declaration?

A. I don't know.

Q. The constitution of the National Metal Trades Association would have that information, would it not?

A. You have it before you and I haven't, I can't tell you.

Q. Have you ever read it?

A. No, sir.

Q. Have you ever read the declared principles?

A. Yes.

Q. To what extent does The Falk Corporation follow the declaration of principles of the National Metal Trades Association?

A. Not any in particular.

Q. In general?

A. I would not say any in general, unless it happens to be something that we agree with.

Q. Which of those declarations do you not agree with?

A. I don't agree—

Mr. Lamfrom: Just a moment. That is a rather unfair question to put to a person. He says he has no knowledge of what the declarations are, and he is asking him which 563 ones he does not agree with, and unless the witness is allowed to refresh his recollection of the declarations, what the declarations are, he cannot give an intelligent answer.

Mr. Rissman: I accept the suggestion of counsel and will allow Mr. Falk to review the declarations of principles together with the constitution.

Mr. Lamfrom: Assuming all this to be so, Mr. Examiner, counsel for the Labor Board would contend, I presume, that the Metal Trades Association have laid down certain principles and that Mr. Harold S. Falk is president of the local, but I cannot see the relevancy of it at all.

Trial Examiner Batten: Well, I think it is relevant in this way: If the constitution and declaration of principles of the organization are in evidence or the witness has them, and his company is a member, I think it is relevant for him to state as to what ones of those principles he favors or does not favor, and as to how relevant that may be, I think the Trial Examiner will pass upon at the time he considers the report.

I think I stated in a previous case that I don't know that every man who belongs to an organization wants to subscribe 100 per cent to everything it does or all of its policies. However, they are members and I think it is proper that he should state what ones of those principles—

564 Mr. Lamfrom: This company adheres to?

Trial Examiner Batten: Adheres to, and which ones they do not.

Mr. Lamfrom: Well, if it goes just to that extent I think

you are absolutely right, the relevancy is there, but I mean certain questions of the Metal Trades are not relevant.

Mr. Englehard: May I ask Mr. Rissman this question, whether or not that pamphlet or that bulletin shows the presently existing constitution and presently existing declaration of principles or is this something old?

Mr. Rissman: This contains—for the record I will identify it.

I have here a document that I will ask to be marked Board's Exhibit No. 20 for identification, being a report of hearings before a subcommittee of the Committee on Education and Labor, the United States Senate, with particular reference to the constitution and declaration of principles set out at page 1002 of the exhibit, entitled "The Constitution of the National Metal Trades Association as identified and produced before the United States Senate by Homer D. Sayer, the Commissioner of the National Metal Trades Association."

Mr. Englehard: And at what date?

Mr. Rissman: The hearings conducted before the Senate Committee were held January 14th and 15th, 21st, 22nd and 23rd, 1937.

565 Mr. Englehard: Well, would that be relevant then in any event, because the Labor Act was held constitutional on April the 12th, and it may be that the policy of that Association has changed since then.

Mr. Rissman: I have asked Mr. Falk once and I will ask him again, if the policies and declaration of principles in the constitution of the National Metal Trades Association have been changed recently, within the last six months, if you know?

The Witness: That is a matter of determination of the executive board, and I don't know whether it has been changed.

Q. (By Mr. Rissman) Have you received any notice as president of the Milwaukee chapter of the National Metal Trades Association, have you been notified in any manner of any change in the declaration of principles or the constitution?

A. Only talking with Mr. Sayer. He has been discussing some changes.

Q. Have any changes been effected?

A. Not that I know of.

Trial Examiner Batten: Mr. Rissman, I believe if there is no objection we will adjourn until two o'clock.

(Whereupon, at 12:30 o'clock p. m., a recess was taken until 2:00 o'clock p. m. of the same day.)

566

After Recess

(Whereupon, the hearing was resumed, pursuant to recess, at 2:00 o'clock p. m.)

Trial Examiner Batten: I believe we will proceed, gentlemen.

I wonder if you will just state your name, now.

Mr. Wilson: FRED WILSON.

Trial Examiner Batten: Fred Wilson?

Mr. Wilson: Yes, sir.

Trial Examiner Batten: You are a member of the Independent Union of Falk Employees?

Mr. Wilson: Yes, sir.

Trial Examiner Batten: As I understand, Mr. Burke's partner, Mr. Clark, advised you that it is proper for us to proceed.

Mr. Wilson: Yes, sir.

Trial Examiner Batten: Here is Mr. Clark now.

Mr. Clark, we have your permission to proceed in case you don't happen to be here?

Mr. Clark: Yes. It was just that some of this testimony will not affect our organization, that was being put in.

Mr. Rissman: May I have a brief recess for about five minutes, Mr. Examiner? I would like to speak to Mr. Goldberg and Mr. Schultz.

567 Trial Examiner Batten: Yes.

(A short recess was taken.)

Trial Examiner Batten: I think I would like to make the statement into the record at this time, that counsel for all interested parties have agreed that the Amalgamated Association of Iron, Steel and Tin Workers of North America, Lodge No. 1528, the Independent Union of Falk Employees, and the International Union of Operating Engineers, Local No. 311, are labor organizations within the meaning of the Act, subject to such evidence as the parties care to introduce, without any restrictions in it.

We are ready to proceed.

HAROLD S. FALK, resumed as a witness by and on behalf of the National Labor Relations Board, being previously duly sworn, testified further is follows:

Direct Examination (Continued).

Mr. Englehard: Mr. Rissman, I have here Exhibit No. 20. Do you know what that is? That is the Senate—

Mr. Rissman: The Senate Committee.

Mr. Englehard: Thank you.

Q. (By Mr. Rissman) Mr. Falk, during the noon recess you have had an opportunity to examine Board's Exhibit No. 20 for identification, with particular reference to the declaration of principles of the National Metal Trades Association?

568 A. I have, yes, sir.

Q. Can you tell us now to what extent the policies of The Falk Manufacturing Company are based upon the declaration of principles as set out by the Association?

A. Couldn't we take that apart, Mr. Rissman, and take them one at a time?

Q. Yes.

A. It would be a little simpler; I haven't got a photographic mind.

Q. Keep this before you. With reference to dealing with labor organizations does the policy of The Falk Corporation differ from the principles as set out by the National Metal Trades Association?

Mr. Lamform: In this exhibit.

The Witness: You are referring now to item 1, concerning employees, that paragraph?

Mr. Rissman: Yes.

Trial Examiner Batten: What page?

Mr. Rissman: Page 1010.

The Witness: Well, I should say that we subscribe to that so long and insofar as it does not conflict with the present law.

Q. (By Mr. Rissman) Will you look through the items set out on that page and tell us which of those are not followed by The Falk Corporation in its relations with its employees?

569 Do you want me to read these items?

Q. Read them to yourself—

Mr. Englehard: May I not suggest, Mr. Rissman, that he read item 1 and then express his answer upon item 1, and make it part of the record.

Mr. Rissman: I will offer the declaration of principles in evidence and Mr. Falk may modify any of those that are not followed by his corporation.

Trial Examiner Batten: As I understand your question to Mr. Falk now is to state those principles which his company does not subscribe to.

Mr. Rissman: That is right.

The Witness: Did I answer the question on No. 1?

Q. (By Mr. Rissman) Yes.

A. Well, on No. 2, we disapprove of strikes and lockouts; that I think we subscribe to.

I think the last line here after the semicolon, where it says "neither will the members of the Association deal with striking employees as a body" would be in direct conflict with the law, and I don't think we want to be in conflict with the law; so I would say we disagree with that.

Q. The policy of your corporation would be to deal with employees who were on strike; is that right?

A. I think we subscribe to item 3 there again, except perhaps the present day interpretation of loyalty for the 570 interests of your employer, I don't know what interpretation you might put on that.

Q. What interpretation does The Falk Corporation put on it?

A. Well, so long as a man who works for us did his work conscientiously and in our interest we would have no fault to find with him.

Q. You do not feel then as some employers may feel, that an employee is disloyal if he joins a labor organization other than one that has the approval of the company?

A. No, I wouldn't say that.

Mr. Lamform: Excuse me. You mean you don't feel that a worker who joins the union to which you may not, or for which you may not have the highest regard is disloyal by reason of the fact that he is a member of that union?

The Witness: That is what I mean, yes. I thought Mr. Rissman got that interpretation.

Mr. Rissman: I understood.

The Witness: You want me to comment on the apprentice question here?

Q. (By Mr. Rissman) No, we are dealing now only as to those principles affecting employer and employee relationship, particularly with reference to collective bargaining, the freedom of organization and those matters.

A. Under 5 "The responsibility for management, method and the production of our shops rests upon us, and no restriction upon these matters will be allowed", I should say we subscribe to that except insofar as it may possibly be construed to be relating to wages or hours of work or conditions.

Q. What is the policy of the company as relating to wages, hours and conditions of work?

A. We are very agreeable to bargain with that in accordance with the law.

I should say, the next paragraph, we do expect our people to produce properly and pay proper compensation therefor.

Then again the question of type of pay or premium, piecework or contract or other system, I should say under today's situation would be a matter that might be the subject for bargaining and we would be willing to discuss that with the men and bargain with them on it.

Q. So that practically up to this point now the declaration of principles of the National Metal Trades Association are not binding upon you, or your company would not follow them insofar as they had been modified or limited by this law?

A. I think that is right.

Q. Is that true with respect to the rest of the declarations?

A. Well, there is nothing in the law that prevents a man from leaving our employment, and it is the privilege of 572 the employer to discharge any man any time he sees fit.

I think our record stands for itself on that; we don't just up and fire people without giving due consideration to the length of service, and so forth.

Q. At the present time you recognize that there are circumstances which previously might be cause for discharge of a person but would not be today?

A. I do.

Q. And to that extent, that paragraph is limited by the law?

A. Yes. Item No. 7 again, we subscribe to that item prac-

tically all the way through, and again if there is any need for any modification there to comply with the law, I think we would be inclined to.

Q. Paragraph 7, entitled "Concerning disagreements", do you know what the general practice was with reference to that prior to the enactment of legislation guaranteeing to employees the right to be represented?

A. No, I don't.

Q. Let me ask you this way: as a matter of practice was not that paragraph included to give the employer the right to use that vernacular wherever he felt it was necessary to deal with a group of employees because of any particular action on their part?

A. Well, I don't know, Mr. Rissman, I didn't have 573 much to do with the writing of this.

Q. I appreciate that.

A. I work a little at our own plant; I am not much of an association man anyway.

Q. Do you recall—can you recall when you saw these declarations of principles before this morning?

A. No, I can't.

Q. It has been so long ago?

A. Quite a while ago.

Q. You don't refer to them?

A. No.

Q. But can you tell us generally?

A. No, I think the men themselves will probably testify to that, that we have tried to pay equitable wages.

Q. But with reference to the declaration of principles of the National Metal Trades Association, you say you haven't referred to them for some time and have probably been unacquainted with them.

A. I don't know that I ever have.

Q. You never have?

A. I don't think so.

Q. Can you tell us whether you are generally familiar with the broad principles with which the National Metal Trades Association concerns itself in matters of labor relations?

A. Yes, I would say I was.

574 Q. What is your understanding of those broad principles?

A. Well, since my activity with the Association the effort has been largely in an educational direction.

Q. You mean in apprentice training?

A. Not only that, in foreman training, the question of equitable wages, proper shop conditions, sanitation and safety and matters of that kind.

Q. What has it been with reference to labor unions in collective bargaining, in strikes and lockouts, and methods of dealing with employees?

A. Well, they are pretty definitely set down there, Mr. Rissman.

Q. I mean aside from that, what was your general understanding of the Association principles in that respect?

A. Well, that we did everything in our power always to avoid strikes.

I think we were always rather proud of the fact that comparatively few strikes took place in our member plants. I think if you will refer to any discussions that were had before the Association, that was one point that was always mentioned, that the most of our association member plants were rather free from strikes and labor disputes.

Q. Could it be said then, Mr. Falk, that with respect to the matters that the Association dealt with regarding employee organization and bargaining collectively, the attitude and principles of the Association were for the employer not to recognize an outside union?

A. I think that is right.

Q. And for the employer not to enter into closed shop agreements?

A. That is right.

Q. And for the employer in the event of a strike of his employees, to operate his shop with people furnished by the Association?

A. You are referring now to a lot of these things before the enactment of the law?

Q. Yes.

A. That is right.

Q. And even after the enactment of the law those broad principles of the Association were modified merely to come within the law, or rather eliminated?

A. I don't think that is quite right. I think you will find that they have taken a pretty liberal attitude which I think can be pretty definitely established by looking over the so-called guiding literature, or whatever your expression was

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of that this morning, I think it would pretty clearly indicate their attitude.

Q. Now, your labor relations with your employees and in the publication of the statement of policy, and also in the writing of the letter to the employees in the powerhouse, were you guided by literature and statements of the National Metal Trades Association or were you guided by your own ideas on the subject?

A. I think that was my own idea.

Q. After you wrote that letter to the men in the powerhouse and after you spoke with them, do you remember what effect, if any, that letter had on the men?

A. No.

Q. Do you know whether it tended to encourage or discourage their membership or application for membership in Local 311?

A. I don't know whether it did or not.

Q. Was it intended to promote or discourage their membership in Local 311?

A. No.

Q. Aside from the purpose you have already stated what other purpose did you seek to serve by writing that letter to them?

A. I don't know that I had any other.

Q. Did you know and did you feel at the time of the letter that a statement of the company's position with reference to an outside union would have any effect upon the men as to whether or not they would join an outside union?

Mr. Engelhard: Just a moment. That letter does not necessarily indicate any objection to any outside union or favor to any other kind of union. The letter on its very face states the men may join any union they see fit.

Mr. Rissman: He has stated the company does not favor labor unions.

Mr. Engelhard: The question does not say "labor unions".

Trial Examiner Batten: What was the question?

(The question was read.)

Trial Examiner Batten: I will sustain the objection to that question. I don't recall that there was any reference in that letter to an outside union.

Mr. Engelhard: No, there is not.

Mr. Rissman: Strike the word "outside" and leave it "union".

Trial Examiner Batten: He may answer that question, if that part is stricken from the question.

Mr. Rissman: That part may be stricken.

Trial Examiner Batten: Will you read the question again, now.

(The question was read as follows:

"Did you know and do you feel at the time of the letter that a statement of the company's position with reference to a union would have any effect upon the men as to whether or not they would join a union?"')

The Witness: No, I would answer that, no.

578 Q. (By Mr. Rissman) In your experience in the operation of the plant, Mr. Falk, do you know what would be the general effect and result on the employees of such a letter to them?

A. Well, I can't say for anybody else, but I think in our case, it is my personal feeling that it would not make any great difference.

Q. Why wouldn't it make any difference in your case?

A. Because we have always been very free to discuss matters with our men and I think they know the attitude in which we discuss them with them.

Q. Prior to this time, the time of this letter what was there in the experience of the company that would lead the employees to believe that they could join outside unions and that the employer would deal with such outside unions?

A. Will you state that again? That is rather long.

Mr. Rissman: Will you read the question, please.

(The question was read.)

The Witness: I cannot answer that question.

Q. (By Mr. Rissman) Well, at any time before 1936 or before 1937, did the company deal with an outside labor organization?

A. No.

Q. So that the employees had no way of knowing except through statements of the company, the company's attitude to an outside labor union; isn't that true?

579 A. I wouldn't say that was necessarily true.

Q. Well, how would the employees know your attitude except through statements of the company or through experience of the company?

A. Well, we are not in the habit of making very many statements except by way of consultation with the men.

Q. Well, directing our attention now to the letter written to the operating engineers or to the powerhouse employees, you say that was the only published statement so far as your employees were concerned, indicating the attitude of the company toward unions?

A. Well, that one and other ones that we posted.

Q. Which one came first?

A. Well, the date of this is April 16th, and the date of the other April 21st, isn't it?

Q. Yes. So that before April 16th the employees in the powerhouse had no indication of the company's attitude towards labor unions except what they may have gained through personal conversation with you or other officers of the company?

A. I think perhaps that is right.

Q. (By Trial Examiner Batten) Mr. Falk, when you issued this letter you did not have in mind that it might in any way influence the employees? What was the purpose of issuing it?

580 A. This April 16th letter, you mean?

Q. The one that had been introduced as an exhibit, yes, that is it.

A. I issued that because I tried to make an answer to a communication that they had gotten from the outside union, which to my way of looking at it, was an entirely false statement of the situation.

Q. Did you expect the employees to give consideration to your statement setting forth your views? You at least expected them to give some thought to your statement in your letter, did you not?

A. Yes, I would say yes.

Q. (By Mr. Engelhard) In that connection, of course, you have in mind the entire letter, Mr. Falk?

A. I certainly did.

Trial Examiner Batten: Well, I referred to the entire letter.

Q. (By Mr. Lamfrom) Was there anything in the fact that you considered the statement on that postal card to be false as reporting an interview with you, and the facts connected with which were not the fact—

Trial Examiner Batten: He just stated that was the reason.

Mr. Lamfrom: May I finish?

Trial Examiner Batten: Yes.

581 Q. (By Mr. Lamfrom) (Continuing)—that led you to express yourself as to your preference for or against a union?

In other words did the fact—let me put it differently to you—that the union had misstated what you had said in this meeting that you had with the representative of the union, to the extent that it led the men to believe that you were already to sign a contract with them, did that lead you to express a preference for or against the union in this statement you made to the employees?

A. Yes, I think it did; I think that was what really prompted this letter, the fact that they were making statements that were not true.

Q. (By Trial Examiner Batten) And was that the only reason you stated that you were against the union?

A. Well, I would say this, Mr. Batten: I figured that I could make a statement of fact without cross purposes, without getting the cross purposes—

Q. My question is, was the only reason that you made the statement "We do not favor the union", because of the misstatement on the postal card?

A. Yes, I would say yes, to this extent, that I thought it was up to me to make our position clear, inasmuch as it had been befogged very considerably by the card.

Q. Was that the only reason that you were against the union at that time, because of this misstatement?

582 A. No, I would not say that.

Q. Well, what were the other reasons?

A. Well, I thought I stated some this morning, that I don't like to do business with an outside party; I don't think they have been shown that they have been entirely responsible, and therefore I felt it was perfectly fair that we make a statement about that, making our position clear.

Q. (By Mr. Rissman) Mr. Falk, in addition to the letters and personal conversations that you have had with employees is it not true that employees in your plant would know the position that you had or took with reference to labor organizations because of public addresses or public statements that you have made?

A. I don't know.

Q. Well, have you made public statements and public addresses either through the press or over the radio indicat-

ing your views on labor organizations and other matters relating thereto?

A. I talked once before the Junior Association of Commerce over the radio.

Q. When was that?

A. Oh, I don't remember.

Q. Approximately?

A. I haven't any idea; it seems to me it must have been a year ago.

583 Q. Just about a year ago, and that statement in addition to being carried over the radio, received a good deal of publicity in the local newspapers?

Mr. Engelhard: Now, what statement do you refer to, Mr. Rissman?

Mr. Rissman: The speech of Mr. Falk to the Junior Chamber of Commerce a year ago.

The Witness: Well, it was reported in the papers, that is all I know.

Q. (By Mr. Rissman) And from that statement or that speech could there not be impressions as to your attitude toward labor organizations?

A. I don't remember the context of that speech, so I couldn't say.

Q. Wasn't that speech very definitely concerned with your policy toward labor unions and their irresponsibility and how they do not benefit the workers, and generally what might be termed by a good labor unionist, a tear-down speech rather than a build-up one?

A. Perhaps so.

Mr. Lamfrom: May I inquire, Mr. Rissman, whether you have a copy of that speech?

Mr. Rissman: No, I haven't.

Mr. Lamfrom: The record does not indicate what the speech contained.

584 Mr. Rissman: Except as explained by Mr. Falk.

Mr. Lamfrom: Well, he said, "perhaps so", but it is not very clear as to whether or not his interpretation—

Trial Examiner Batten: Mr. Lamfrom, when the time comes for cross examination, or at any time that you care to, you may have Mr. Falk explain just what was in it. If you happen to have a copy of it you will be privileged to introduce it.

Mr. Lamfrom: Well, I assume, your Honor, that in order to make this record connected up, that this time would be

proper, if he has it, to introduce it in evidence and then it would be a connected story.

Mr. Rissman: I am willing to accept Mr. Falk's statement as to what the speech contained.

Mr. Lamfrom: That is nice of you.

Q. (By Mr. Rissman) Since the passing of the Works Council, Mr. Falk, how has the corporation, if at all, engaged in collective bargaining with representatives of its employees?

A. Through the Independent Union.

Q. The intervening petitioner here, called Independent Union of Falk Employees?

A. Yes, sir.

Q. In any other manner, in any other manner than with that union?

A. Not for the whole group, no, but individually we will discuss anything with anybody at any time.

585 Q. When did you engage in collective bargaining with the Independent Union?

A. Well, from the time that we recognized them.

Q. When was that?

A. Some time early in April, I don't recall the date.

Q. Was that recognition made known?

A. I think there was a letter that was signed by the president of the company acknowledging them as the bargaining agents.

Q. Do you have that letter with you? Is that the information—

A. I think Mr. Lamfrom has it.

Mr. Lamfrom: Yes, we have it. Will you get that letter for him.

Just a minute, that is my cigar.

Mr. Engelhard: I am not trying to shoot a snipe.

Mr. Rissman: Thanks.

Q. (By Mr. Rissman) I hand you herewith—

Mr. Rissman: I now offer in evidence if the Examiner please, Board's Exhibits Nos. 17, 18 and 19, being letters identified by Mr. Falk, together with a statement of policy he identified as having been posted in the plant.

Trial Examiner Batten. If there is no objection they will be received.

(Whereupon, the documents above referred to, marked 586 BOARD'S EXHIBITS NOS. 17, 18 AND 19, respectively, were received in evidence.)

Mr. Engelhard: How about Exhibit No. 20, Mr. Rissman?

Mr. Rissman: I will offer that exhibit, Exhibit No. 20, which has printed in it the constitution and declaration of principles of the National Metal Trades Association.

Mr. Lamfrom: Why not designate the pages and then it will be definitely set out where that is.

Mr. Rissman: We shall do that. I believe the declaration of principles are on page 1010, and that is the last page of the constitution.

Trial Examiner Batten: I believe they are—they start on page 1002, does it not, the constitution?

Mr. Lamfrom: That is right, 1002 to 1010.

Mr. Rissman: Inclusive.

Trial Examiner Batten: If there is no objection it will be received.

(Whereupon, the document above referred to, marked BOARD'S EXHIBIT NO. 20, was received in evidence.)

Q. (By Mr. Rissman) I now hand you Board's Exhibit No. 21 for identification, which is a letter in response to a subpoena served upon the corporation, addressed to Messrs. Fred Wilson, Joseph Tröst and Carl Menz, dated April 23rd, 1937, advising the persons named that the company 587 will recognize them as the sole bargaining agency for employees of the Falk Corporation, and will ask you if that is the letter you referred to, signed by Herman W. Falk, president?

(Handing document to witness.)

A. That is right.

Q. This letter, Mr. Falk, refers to a conference with a committee. Were you present at that conference?

A. Not at that time; I was out of town when they had this one.

Q. Were you present at the conference at which the Independent Union or any of its representatives demanded that they be recognized as the sole bargaining agents?

A. I don't think so. This is the only one that I recall anything about, I wasn't there.

Q. Tell us when was the first time you met with the representatives of the Independent Union?

A. Well, some of them came into my office some days before this, I don't know how long.

Q. Who came in?

A. I think John Mitchka.

Mr. Lamfrom: What is the date of that letter?

Mr. Rissman: April 23rd.

Mr. Lamfrom: April 23rd?

588 Mr. Rissman: Yes.

Mr. Lamfrom: I think this will clear it up.

Mr. Rissman: Excuse me, I think it is called for in the subpoena, but we do not have it.

Q. (By Mr. Rissman) I hand you herewith Board's Exhibit No. 22 for identification and ask you if that has ever been served upon or seen by you?

(Handing document to witness.)

A. Yes, I have seen that.

Q. And tell us briefly just what that is?

Q. Yes, for the record.

A. Well, it is just a statement of the fact that articles of incorporation of the Independent Union of Falk Employees were filed with the Secretary of State, and they informed us that they have approximately 400 employees of the company who have signed applications to date.

Mr. Lamfrom: May I just ask a question?

Mr. Rissman: Yes, sir.

Q. (By Mr. Lamfrom) Exhibit No. 22, Mr. Falk, is a notice dated April 20th, 1937 to The Falk Corporation, from Carl Menz, Joseph Trost and Fred Wilson, designated therein as organizers, notifying The Falk Corporation of the organization of the Independent Union of Falk Employees, and in substance really requesting that the company pick a time and place where they may meet with you to discuss the question of collective bargaining on behalf of 589 members of the Independent Union of Falk Employees; is that correct?

A. Yes, sir.

Q. (By Mr. Rissman) Is this the first you heard of the Independent Union of Falk Employees?

A. No, I think not.

Q. When did you first hear about the Independent Union?

A. Well, I don't know when exactly, several days perhaps before that.

Q. And from whom did you hear it or about it?

A. I think from Mitchka, and I am not sure who the other two were; I am quite sure Mitchka was one of them.

Q. John Mitchka?

A. Yes, sir.

Q. And who were the others?

A. Leslie Greget, I believe—

Q. And was Stickman the third man?

A. I don't recall.

Q. How did you hear about it from them and where did you hear about it?

A. They came into my office and told me they were going to form this organization.

Q. What did you say?

A. I don't recall what I said.

Q. Do you recall you said anything?

590 A. Oh, I said something undoubtedly.

Q. Did you tell them at that time you did not favor unions?

A. No, I don't think I did.

Q. Did you approve of their idea?

A. Yes, I did.

Mr. Engelhard: Now, do you mean mentally or openly, is that what you mean, Mr. Rissman?

Mr. Rissman: I am trying to get the conversation; Mr. Falk does not remember.

Mr. Engelhard: I would like to know what you mean when you say "you approved".

Q. (By Mr. Rissman) Your approval, did you announce your approval of the idea?

A. No, I don't think I announced my approval of the idea.

Q. What did you say to them at all?

A. I don't remember what I said to them.

Q. Did they ask your advice on the subject, notify you they were forming it?

A. I think primarily they came in to ask me whether I knew of an attorney that can handle their affairs for them.

Q. And to whom did you refer them?

A. I mentioned two names.

Q. Whose names?

A. Mr. Irving Fish and Mr. Burke.

Q. Mr. Burke is associated with Mr. Clark?

591 A. Yes, sir.

Q. Who is now representing the Independent association?

A. As I understand it, yes.

Q. Prior to this meeting with those men, the three men, two of whose names you know and the third whose name you cannot recall, did you know anything about the Independent Union being formed in your plant?

A. Yes, I knew in a general way something was going on.

Q. What do you mean, in a general way, Mr. Falk?

A. Well, some of the men had talked to me as I went through the plant about it, saying they were going to do it.

Q. Directing your attention to approximately April 8th, 1937, do you recall on that date you attended the last meeting of the Works Council in the plant?

A. I don't remember what date it was; I attended a meeting, I don't know whether it was a Works Council meeting or not, I doubt whether it was. It seems to me that there was a lot went on at the last Works Council, meeting, but I don't recall the date of it.

Q. Do you recall there was a meeting of the Works Council on April 8th?

A. No, I think not.

Q. Do you recall the meeting of the Works Council where you announced an increase in wages and some adjustments in wages?

592 A. Yes, I recall the meeting, but I don't recall the date.

Q. It was April 8th—I mean you would not say it was not?

A. No, I would not say it wasn't correct, because I don't know.

Q. Do you recall any statement you made at that meeting of the Works Council with reference to an Independent Union?

A. At the meeting of the Works Council?

Q. Yes.

A. No, I do not.

Q. Well, do you recall any meeting of your employees where you spoke about an independent union in the month of April, prior to the time that you were advised that the Independent Union of Falk Employees was formed?

A. Yes, I think so.

Q. Tell us about that meeting, where was it and when?

A. Well, there were a group of men met under the hospital, as I recall it.

Q. Yes.

A. And I think I was downtown that day, and they asked me to come and I come in rather late.

Q. Was that on Monday, April 12th?

A. I can't answer that, I don't know.

Q. You don't remember the day of the week?

A. No.

Q. What time of the day was it?

593 Mr. Engelhard: Mr. Rissman, we will concede for the purpose of the record that the meeting was held on April the 12th.

Mr. Rissman: Thank you.

The Witness: It was shortly after noon, I would say about one-thirty or two o'clock, along about that time.

Q. (By Mr. Rissman) Did you go to that meeting at the request of these men?

A. Yes, I was sent for, they asked me to come over.

Q. What did you say at the meeting, if anything?

A. Well, I was asked what—or asked to explain, if I could, the Wagner law to the men, and I think I told them, as I recall the conversation, that I was not a lawyer, and that I could tell them only what impressions I had of their rights under the law.

Q. At the time you spoke to them did you know that the Supreme Court had already rendered its decision in the National Labor Relations Act cases?

A. Oh, I don't recall that, Mr. Rissman.

Q. Who were some of the employees who requested your presence at that meeting?

A. I haven't any idea who asked me to come over. There must have been 20 men that sent word over to the office, that the boys wanted to see me, that they were having a meeting. I haven't any idea who asked me to come.

594 Q. And you gave them your impressions of the Wagner Law?

A. As near as I could, yes.

Q. What did you tell them with reference to unions?

A. "I think one of the men asked me how our business might be affected if we had no organization in our plant and were doing business with some other plant that had a union, and, as I recall the statement that I made to them, that it didn't seem to me that it would make any particular difference whether they belonged to the C. I. O. or the A. F. of L., or some other organization, that there was just as much chance of a conflict between the A. F. of L. and a C. I. O., and the C. I. O. and an independent or any other combination that there might be; that it wouldn't make any difference, in my mind, relating to our business, and I think I cited at that time as an example of the possible conflict between A.

F. of L. and C. I. O., about the Allis arrangement down here at the exposition at that time, when the C. I. O. trucks from Allis came down, and the A. F. of L. made them transfer it to the A. F. of L. trucks, and took it in. That was the substance of my conversation, as I recall it."

Q. When you were called down to this meeting did you know that meeting was called for the purpose of determining whether or not a union should be formed, or did you know why this meeting was being held?

A. No, I had no idea at all. I was not at the plant when the men called, I was simply called in and they 595 asked me those questions and perhaps some others.

Q. Did you inquire of the employees the purpose of that meeting under the hospital?

A. No.

Q. When did you find out what the purpose was?

A. I never did find out.

Q. Even at a later date?

A. No, I don't know today what the purpose of that meeting was.

Q. Were there any meetings similar to that?

A. Not that I attended.

Q. Do you recall at that meeting you spoke to the employees and told them that, something to this effect, that they could not longer have the Works Council, that it was necessary to join and have a labor organization, and the A. F. of L. and the C. I. O. were fighting among themselves, so therefore you recommended an independent union where you could meet around the table with all the boys and discuss matters?

A. I don't think that is right, Mr. Rissman.

Q. Anything similar to that?

A. I don't think I made a statement like that.

Q. You said the only illustration you had of the A. F. of L. and the C. I. O. was the one concerning Allis Chalmers truck drivers?

596 A. That is all I recall.

Q. When the employees—when the three employees came to you to inquire about your recommendations for an attorney what else took place besides that, besides you naming—

Mr. Engelhard: Just a moment, I object to including in that question "recommendations for an attorney".

He did not testify they came to him to recommend an attorney.

Trial Examiner Batten: I think he testified—

Mr. Rissman: I think his testimony is that they wanted some advice on who to get.

Trial Examiner Batten: They came to Mr. Falk and wanted to know if he knew an attorney that they might use to assist them in organizing, and that you gave the names of two attorneys.

The Witness: I did.

Mr. Rissman: The form of the question does not make any difference.

Q. (By Mr. Rissman) Was there anything else that took place at that meeting?

Mr. Engelhard: Just a moment. Then you withdraw that question?

Mr. Rissman: I will change it, I mean it is not important whether he said he recommended them. If he did recommend them it will appear.

597 Q. (By Mr. Rissman) At that meeting where these employees came to you and there was some conversation about an attorney for their Independent Union was there anything else that took place?

A. As I recall the incident these men came in and asked me whether I could suggest an attorney to them; I asked them whether they didn't know any, and they said no, and I mentioned the names of Mr. Irving Fish and Mr. Burke, and then they asked me to call Mr. Burke, one of them asked me to call up Mr. Burke, which I did.

Q. What conversation did you have with Mr. Burke?

A. Only that there were three men in my office and they wanted to form an independent union and would like to have a date with him.

Q. And you arranged an appointment?

A. I think I did.

Q. Following that meeting where you suggested Mr. Burke as attorney when was the next time you as an officer of the corporation had any meetings or conferences with representatives of the Independent Union?

Mr. Engelhard: Now, just a moment. Again I object to the inclusion in that question of the phrase "suggested an attorney".

There is no evidence that he suggested an attorney. The

men asked the names, and then named two names and 598 then they requested him to call up Mr. Burke.

Trial Examiner Batten: Of course whether you say "suggested", "recommended" or "named", I assume that—

Mr. Rissman: If that is the objection, I can change the question.

Trial Examiner Batten: I assume that what Mr. Rissman means is the testimony thus far with respect to the way in which the Independent Union secured an attorney.

Mr. Engelhard: Yes, and let the testimony speak for itself without interpreting the testimony in subsequent questions.

Trial Examiner Batten: You may answer that.

The Witness: May I have it read?

Trial Examiner Batten: Read the question.

(The question was read.)

The Witness: I don't remember.

Q. (By Mr. Rissman) Can you tell us why at this meeting where you talked about attorneys, you mentioned or stated the names of Mr. Fish and Mr. Burke rather than other attorneys you know?

A. Simply because I happened to have heard they had done that kind of work before.

Q. Where and how did you hear that?

A. I cannot answer that, I don't know.

Q. When you say "that kind of work" you mean you knew that Mr. Fish and Mr. Burke had assisted in the 599 organization of Independent unions?

A. Yes.

Q. Do you know of any independent unions they have created in addition to the Falk Independent Union?

A. Well, I happen to know one that Mr. Fish worked with, the Bucyrus Erie.

Q. Bucyrus Erie?

A. Yes, sir.

Q. Do you know of any others that Mr. Burke—

A. No, sir.

Q. —or his firm have participated in?

A. No, I do not.

Mr. Engelhard: Mr. Rissman, I assume that the last question referred to at that time, and not now.

Mr. Rissman: I asked for any meetings with representatives.

Mr. Engelhard: No, you asked him the question whether

he knew what kind of independent unions Mr. Burke and Mr. Fish had dealings with and he stated that he knew at that time that Mr. Irving Fish had dealt with the Bucyrus union, and he also indicated that he did not know what kind of unions Mr. Burke had dealings with.

Now, it may be that since that time he has had information regarding some.

600 Mr. Rissman: My question referred to at that time.

Mr. Engelhard: Yes, I assumed so.

The Witness: That was what I understood.

Q. (By Mr. Rissman) You understood it that way?

A. Yes, sir.

Mr. Rissman. I am not attempting to learn whom Mr. Burke represents.

601 Mr. Engelhard: No, what I thought I would do would be to clear up the record, to keep it straight.

Q. (By Mr. Rissman) Do you recall the nature of any meetings that you have had with representatives of the Independent Union with reference to collective bargaining since their incorporation?

A. Yes, I do.

Q. What meetings do you recall, Mr. Falk?

A. I can't give the dates of them.

Q. The approximate dates, and tell us what was discussed.

A. I can't even give the approximate date.

As I recall, one of the first meetings that we had after the formation of the Independent Union, we had a discussion about a general wage increase, and at that same meeting there was a request by the Independent Union for the reinstatement of three employees that we had previously discharged.

Those were two questions as I recall it at our first—that were discussed at our first meeting.

Q. Did you ever discuss with representatives of the Independent Union the number of employees they represented in the plant?

A. Yes, I think I did.

Q. Do you know and can you tell us if the Independent Union represents a majority of the employees to entitle them to be the sole bargaining agency for all of your employees?

602 A. At the time that they applied we felt quite sure that they did have a majority.

Q. Did they submit any proof of such representation?

A. They were questioned as I was informed. Of course I wasn't at that particular meeting when they were recognized.

Q. But did they submit any proof to you of their statement?

A. I was not at that meeting, I don't believe so.

Q. Was there ever an election at your plant conducted by some impartial body or person where the employees determined whether or not they chose the Independent Union as their bargaining agent?

A. No.

Q. Do you know if the Independent Union has as its business representatives, persons other than employees of The Falk Corporation?

Mr. Clark: Just a minute, that is objected to as immaterial. There is nothing in this law which requires—

Trial Examiner Batten: Well, I presume that in view of the discussion that there has been here about inside and outside unions, and so forth, that he may answer that question.

Mr. Rissman: Read the question please.

(The question was read.)

The Witness: No, I don't think they have.

603 Q. (By Mr. Rissman) Then would you say that the Independent Union of Falk Employees is an inside or outside organization?

Mr. Lamfrom: I object to that question, because we have not had a definition in this record which is susceptible—

Trial Examiner Batten: Of course I suppose that the witness has not as yet qualified as an expert—

Mr. Lamfrom: On inside and outside unions.

Mr. Rissman: According to Mr. Lamfrom's definition.

Trial Examiner Batten: On labor unions, and the facts with respect to its organization and so forth, I believe that the Trial Examiner would be able to determine from those facts the type of organization, although I am not setting myself up as an expert.

Mr. Lamfrom: The distinguished counsel and myself, he having had such a great mass of experience in this line of work, might not be able to agree upon what is commonly known as an "inside" or "outside" organization.

Sometimes outside organizations are inside organizations, and vice versa.

Q. (By Mr. Rissman) Let me ask you, Mr. Falk, what is your understanding of an outside labor union?

A. Well, I have never heard it used in quite that way, as an outside organization.

Q. How have you heard it used, Mr. Falk?

A. What did you say?

604 Q. How have you heard it used?

A. What, labor union?

Q. Yes:

A. Well, just referred to as a labor union, never as "inside" or "outside."

Q. In your mind or in your practice, has there been any distinction between an inside or plant union and a union organization where the representatives are persons who are not employees of the company?

A. I don't know that I can exactly say this, unless you are bringing in the old Works Council because perhaps they were in some cases plant organizations—

Q. That is right.

A. —stimulated by the company.

Q. Using now the words—using now the Works Council as an example might it not be said that the Works Council was an inside organization as compared to the International Association of Machinists as an outside organization?

A. Oh, it might be, I suppose.

Q. On that basis would you say that the Independent Union of Falk Employees is an inside or an outside labor union?

A. Inasmuch as we had nothing to do whatever with it, I would say that one qualifies as an outside organization just as much as the other.

Q. In other words, inasmuch as the representatives, 605 officers and members of the Independent Union are confined to Falk employees, it would not be an outside organization, is that right?

A. I don't see why not.

Q. Would you say it was the same type of organization as the Amalgamated Association of Iron, Steel and Tin Workers?

A. I don't know much about it.

Q. You have heard of it?

A. I have heard of it.

Q. You know that it is in existence at your plant.

A. Yes.

Q. What is the difference in your mind between the Independent Union of Falk Employees and the Amalgamated Association of Iron, Steel and Tin Workers?

A. One has got a professional organizer and the other has not, that is about the only difference that I can see.

Q. Do you know if the Independent Union of Falk Employees has any affiliation with other regular organizations?

A. No, I do not.

Q. Do you know whether the Amalgamated Association of Iron, Steel and Tin Workers has any affiliation?

A. No, sir.

Q. Don't you know that it is an affiliate of the C. I. O.?

A. No, I don't know.

Q. That is news to you.

606 A. That is news, yes.

Q. Do you know that the Amalgamated Association of Iron, Steel and Tin Workers is an affiliate of the Steel Workers Organizing Committee?

A. No.

Q. Do you know Mr. Adelman?

A. Yes, sir.

Q. Do you know his position?

A. I know he is an organizer.

Q. For whom?

A. The C. I. O.

Q. Didn't Mr. Adelman come to you in his representative capacity, representing the Amalgamated Association of Iron, Steel and Tin Workers?

A. I think he did.

Q. Has The Falk Corporation entered into negotiations with the Independent Union for collective bargaining?

A. Yes.

Q. Has the Independent Union made any demands upon the Falk Corporation for an agreement?

A. Yes, they have.

Q. Have they presented their demands in writing?

A. Yes.

Q. Are those documents available?

A. I think the documents are available, but they are
607 held in abeyance at Mr. Clark's request until this trial is over, so nothing has come of it.

Q. (By Mr. Engelhard) By "Mr. Clark", you mean the Regional Director of the Board?

A. Exactly.

Q. (By Mr. Rissman) I mean are they available here? Aren't those documents that would be covered by subpoena served upon you calling for all records and documents?

A. They have never been acted upon, Mr. Rissman, they were just submitted and left—

Q. Do you have those?

A. I haven't them.

Mr. Engelhard: I don't think we have them here.

Mr. Rissman: Will they be produced?

Mr. Engelhard: We will produce them tomorrow if they are available, that is, if we have them. I haven't seen them in my files.

Trial Examiner Batten: I think we will recess for ten minutes now, gentlemen.

(A short recess was taken.)

Trial Examiner Batten: I believe we will proceed now, gentlemen.

Q. (By Mr. Rissman) Mr. Falk, do you recall how many meetings you have had altogether with the Independent Union of Falk Employees or their representatives?

608 A. No, I do not.

Q. You do not?

A. No.

Q. Is it your opinion, Mr. Falk, that the company prefers to deal with the Independent Union of Falk Employees rather than with the Amalgamated Association of Iron, Steel and Tin Workers?

A. Yes.

Q. Can you tell us why?

A. Because they are a responsible body and incorporated and can be sued.

Q. By "responsible body" you mean in addition the fact that they have a charter from the state of Wisconsin?

A. They can be sued, they are incorporated.

Q. Do you know if they have any property?

A. No, I do not.

Q. Do you know what the company could gain in the event of a suit against the Independent Union of Falk Employees?

A. I had not thought of any particular gain, except they are incorporated, they can be sued, and they are a responsible body.

Q. Is that the only preference you have for them, the

fact that they are incorporated, and the Amalgamated Association of Iron, Steel and Tin Workers is not incorporated?

A. No, I think I answered that once before, Mr. Rissman, when I said we would very much prefer to do business with our employees, without the influence of an outside organizer, than we would the other way.

Q. If the Independent Union of Falk Employees had an outside organizer, as you say, would you still prefer it to the Amalgamated Association?

A. I don't know.

Q. Do you at the present time contemplate the execution of an agreement with the Independent Union, that you have in mind their ability to be sued?

A. Will you say that again?

Mr. Rissman: Will you read the question please.

(The question was read.)

Mr. Engelhard: Now, your Honor—

The Witness: I don't think I understand that.

Q. (By Mr. Rissman) You said you preferred the Independent Union because it is a corporation and can be sued.

A. Yes.

Q. Is that right?

A. I said "Yes".

Q. Do you have an agreement with them at the present time?

A. Not now, no.

Q. Is there an agreement being negotiated between you at the present time?

A. Not now.

610 Q. (By Mr. Lamfrom) Why not?

A. There was one in preparation and at the request of the Regional Director here, Mr. Clark, we suspended all discussion.

Q. (By Mr. Rissman) You say there was an agreement in preparation?

A. Yes.

Q. Is it proper to say that if it were not for the intervention of Mr. Clark, that agreement would have been consummated?

A. I think so, yes.

Q. If a majority of your employees chose the Amalgamated Association of Iron, Steel and Tin Workers, would you consummate an agreement with that organization?

A. The same kind that we would consummate with the Independent, yes.

Q. Would you consummate an agreement that was agreeable to you and to the Amalgamated Association?

Trial Examiner Batten: I assume that is on the theory that they agreed and arrived at the same points.

Mr. Rissman: I don't know what kind of an agreement the Independent has presented. It may be entirely dissatisfactory to a labor organization.

Trial Examiner Batten: Well, what I meant, Mr. Rissman, was, the question does mean that if the parties arrived through negotiations at an understanding, that they would be willing to enter into such an agreement.

611 Is that the sense of the question?

Mr. Rissman: That is right.

The Witness: I would say so, yes.

Q. (By Mr. Rissman) Mr. Falk, can you give us your opinion and the opinion of the company as to which organization, the Independent Union of Falk Employees, or the Amalgamated Association of Iron, Steel and Tin Workers, could best accomplish the purposes of collective bargaining for the employees at your plant?

A. I did not get you.

Mr. Rissman: Will you read the question please?

(The question was read.)

The Witness: I can give you my personal opinion.

Q. (By Mr. Rissman) Give it to us please.

A. The Independent Union.

Q. Why?

A. Well, I thought I had answered that two or three times, because we would rather do business with our own employees because they are a reasonable body, organization.

Q. Does the fact that the Independent Union have a charter from the State of Wisconsin make it a better labor organization than the Amalgamated Association of Iron, Steel and Tin Workers?

A. I don't know.

612 Q. Does the fact that the Independent Union is limited for its bargainers to people in your plant make it a better organization for collective bargaining than the Amalgamated Association of Iron, Steel and Tin Workers?

Mr. Clark: I presume that question is based on the assumption that is the fact.

Mr. Rissman: If it is the fact.

The Witness: Isn't that a part of the Wagner law, Mr. Rissman?

Trial Examiner Batten: Will you read that question, Mr. Reporter?

(The record was read.)

Trial Examiner Batten: Do you mean from the standpoint of the employees or the standpoint of the company?

Mr. Rissman: Upon the basis that Mr. Falk stated he believes the Independent association could effectuate better bargaining for the employees than the Amalgamated Association.

Mr. Lamfrom: Then he would naturally believe it is a better organization for collective bargaining from both the employer and employee standpoint, wouldn't he?

Mr. Rissman: I am trying to get the reason for his preference.

Mr. Lamfrom: He has given them half a dozen times.

Trial Examiner Batten: He may answer the question.

613 The Witness: I don't think I can answer it any more definitely than I have before. I have tried to answer two or three times; I will still make the same answer.

Q. (By Mr. Rissman) What is there about outside representation of the Amalgamated Association of Iron, Steel and Tin Workers that in your mind makes it a less desirable labor organization than the Independent Union?

A. Well, I don't like the type of organizer they have got, nor do I like the idea of an outside organizer.

Q. And beyond what is your like or dislike in this case, have you had any experience with them?

A. I had one meeting with him, and I know of a good many of his activities aside from that, and I have therefore formed my opinion.

Q. Was your opinion formed before you had this one meeting with him?

A. No.

Q. It was formed afterwards?

A. Yes.

Q. Was that the meeting of May 5th—

A. What is that?

Q. In the Eagle Building?

A. Yes, that was the only meeting I have ever had with him.

Q. And from that meeting and what was said at that 614 meeting and what you heard at that meeting, you concluded that an outside organizer could not best represent your employees?

A. Well, I say his subsequent activities.

Q. What particular activities do you have in mind, Mr. Falk?

A. Well, after the one at Waukegan, and the thing that happened here the other day in the Harnischfeger case, and other activities on his part in the Harnischfeger case.

Q. You mean the thing that was reported to have happened here. You don't know as a matter of fact anything happened here.

A. No.

Q. And by Waukegan, you refer to the strike at the Fansteel Corporation.

A. Yes, sir.

Q. At Waukegan, Illinois.

A. Yes, sir.

Q. Where Mr. Adelman, the representative of the Amalgamated Iron, Steel and Tin Workers was held in contempt of court for violating an injunction against picketing.

A. Yes.

Q. And upon those reasons your dislike for an outside organizer is based.

A. That is—

Mr. Engelhard: He didn't say an outside organizer, 615 He said this particular organizer.

Trial Examiner Batten: I was just going to say, I think thus far we had probably better distinguish between this organizer, the one that has been under discussion, and organizers in general.

In other words, the witness may have a different idea as to organizers in general than he does of the particular organizer that he has been talking about.

Q. (By Mr. Rissman) Let's limit it to this organizer.

Mr. Engelhard: And then we can take up the others.

The Witness: That is all I can think of now.

Q. (By Mr. Rissman) Now, tell us, Mr. Falk, what your objection to outside organizers other than this one are based upon, any experience you have had with outside organizers?

A. I have had very little experience outside except of this incident, with Mr. Kingsland, and I think there again Mr.

Kingsland made the statement, or perhaps not Mr. Kingsland, somebody else—whoever it was on the postal card made a statement that was entirely in error, and that leads me to the conclusion that most of them work the same way.

Q. You met with Mr. Kingsland?

A. Once, yes, sir, or twice.

Q. What was the opinion that you formed of him as a result of this meeting?

A. As an individual Mr. Kingsland seemed to be a 616 very nice young fellow.

Q. And as a representative of labor, how did he seem?

A. Well, I think he just does—I think he very definitely misrepresented the meeting with me.

Q. You are now referring to the postal card. I mean your impression of him in your meeting with him.

A. I told you that I thought he was very gentlemanly and very decent.

Q. Have you ever had any other experience with outside labor organizers except these two meetings?

A. No, none direct.

Q. Have you had any indirectly?

A. No.

Q. So that your dislike for labor organizers, for outside labor organizers is actually based upon the postal card that you believe contains a false statement and the newspaper reports you have had of Mr. Meyer Adelman in Waukegan and the alleged occurrence, what allegedly occurred in the courthouse the other day?

A. Of course the general reputation they have, I think since this thing was organized.

Q. General reputation?

A. The General Motors agreements that were violated and a few other things like that.

Q. Do you know the General Motors agreements were violated?

617 A. I know that they had a sit-down strike after they had an agreement signed.

Q. But you don't know whether the sit down strike was the result of activities by the union or activities by the employer?

A. No.

Q. And you don't know whether the sit-down strike was caused by the company union, independent union men, or was

caused by members of the United Automobile Workers of America?

A. It is pretty well conceded that it came from the organization I think.

Q. Well, do you know?

A. I don't know of my own knowledge, no.

Q. All right. Other than the automobile workers General Motors situation, and aside from the two incidents that you have related to us, upon what was your opinion of outside organizers based?

A. That is about all I guess.

Q. Do you know any reason aside from those that you have already given us why the Amalgamated Association of Iron, Steel and Tin Workers could not represent your employees very effectively in their collective bargaining relationship with the company?

A. Except as I told you before, I believe they are an irresponsible body.

618 Q. In the event the Amalgamated Association of Iron, Steel and Tin Workers were to make a demand upon your company for collective bargaining, would they be accorded the same privileges and courtesies that you now accord to the Independent Union?

Mr. Engelhard: Just a moment.

That is objected to, your Honor, because there is no choice left to this company, if the Independent Union represents a majority there isn't any choice, it must deal with that union and cannot deal with the C. I. O.

If that question were framed upon the thesis or theory that if the C. I. O. had a majority and had been designated by the majority of employees, then of course the employers would have to recognize it for the purpose of collective bargaining. It would not have any choice under the law.

Mr. Rissman: My question is concerned not with the obligations of the company under the law. The company knows that or can be advised of that.

The question is concerned with the attitude of the employer towards the obligation.

Trial Examiner Batten: I assume the question is, would the company or Mr. Falk extend the same courtesies and deal with the Amalgamated Association in the matter of such a demand.

Mr. Rissman: I will stipulate for the record that the 619 Falk Company would not deal with the Amalgamated Association unless it is required and obligated to do so by law or by order of the Board.

That is a part of my question.

Mr. Engelhard: That is not correct.

Mr. Lamfrom: Of course it takes two parties to make a stipulation. You could not do any stipulating here without us. Suppose we would not stipulate.

Trial Examiner Batten: Will you read the question, please?

(The question was read.)

Mr. Rissman: Assuming the Amalgamated Association of Iron, Steel and Tin Workers had a majority.

Mr. Lamfrom: Exactly. If the question had in it those words under the same circumstances as the Independent, it would be a perfectly proper question.

Trial Examiner Batten: I don't presume Mr. Rissman has any objection, he has added, assuming the Amalgamated had a majority.

Mr. Lamfrom: Yes, they are about the same—

Trial Examiner Batten: Everything else being equal.

Mr. Lamfrom: And everything else being equal.

The Witness: I answer that question Yes, Mr. Rissman.

Q. (By Mr. Rissman) I didn't get that.

Trial Examiner Batten: He said he would answer the 620 question yes.

Q. (By Mr. Rissman) Do you know who in the corporation besides you deals with representatives of the employees for collective bargaining?

A. Mr. Connell does very often.

Q. Who is Mr. Connell?

A. Mr. Connell is vice president, who has the duties really of comptroller.

Q. Are Mr. Connell's views, to you know, similar to your own preference for an independent or inside union?

A. I imagine very much the same.

Q. To what extent would your preference for such a union affect collective bargaining relationships between you and the Amalgamated Association of Iron, Steel and Tin Workers or any other outside union, assuming the outside union had a majority of your employees?

A. I don't think to any great extent. We have got quite

an interest in our own employees, and if it was in their interest, I think you would find we would be reasonably decent.

Q. Who would determine what was in their interest or the interest of the company?

A. I did not get that.

Mr. Rissman: Read the question please.

(The question was read.)

Mr. Lamfrom: What is in their interest?

621 Mr. Rissman: Whatever Mr. Falk had in mind in his previous answer.

The Witness: I can't get that.

Mr. Rissman: Will you read the question again?

(The record was again read.)

Mr. Lamfrom: I submit you have got a balled up proposition there.

Mr. Rissman: I am cross examining Mr. Falk.

Mr. Lamfrom: I know, but we are here to accomplish justice.

Mr. Rissman: Undoubtedly.

Mr. Lamfrom: And not to get each other into the position of saying what the testimony states.

Now, it does not mean much of anything because it does not appear yet what interest he is talking about or what interest you are asking about.

Mr. Rissman: It is the interest—

Trial Examiner Batten: Of course I presume that the Trial Examiner will read the testimony and can get what there is in it. If counsel does not feel it is clear, I think on cross examination he may straighten the matter out.

Q. (By Mr. Rissman) At the time the Independent Union came to bargain collectively for all the employees, did your independent Union indicate what employees in the plant were eligible to membership?

622 A. Yes, I think they did.

Q. What was that indication, Mr. Falk?

A. I think they included all employees as far as I know.

Q. So that it did all of the bargaining of the plant.

A. Yes.

Q. The power house sought to be represented by Local 311, and the draftsmen and engineers?

A. Not the engineers, the draftsmen.

Q. Draftsmen and office employees.

A. And office employees.

Mr. Engelhard: Mr. Rissman, in this connection are you going to introduce Exhibits 21 and 22?

Mr. Rissman: Those two letters?

Mr. Engelhard: Those two letters, yes.

Q. (By Mr. Rissman) At the time the committee of three employees came to you, and there was a discussion about the attorney, did you know the attorney you referred them to—what is the name?

A. Fish.

Q. Fish and Burke represented incorporated unions, did you know they just represented independent unions?

A. No, I didn't know that.

Q. And you used no such distinction.

A. No.

Q. Do you know, Mr. Falk, if the corporation has done anything or if any of the officers of the corporation have done anything to promote the welfare of the Independent Union?

A. No.

Q. Do you know if any of your supervisory employees, foremen or others, have indicated to the workers in the shop its preference for the Independent Union?

A. No, I don't.

Q. Do you know or has it been called to your attention in any way that certain of your foremen and other supervisory officials have been advising and instructing and threatening workers to join the Independent Union?

A. No.

Q. If such matters were brought to your attention, what would be the policy and attitude of the company?

A. We would object to it very strenuously, because we don't want that.

Q. Have your foremen or other supervisors been given instructions with reference to those matters?

A. I think practically all of them have, yes, sir.

Q. And what are their instructions?

A. Not to in any way coerce or influence any man in his choice of a labor organization, they know that.

Q. What are the rules of the company with reference to soliciting union membership in the plant during working hours?

A. It is not permitted.

624 Q. How long has that rule been in effect?

A. When we hire a man we hire him to work and

not to do other things on the job, and I think that is enough, with the understanding when we hire him, we hire a man, that he is not to do anything outside—that he is not to do any outside work of any kind.

We have no written rules.

Q. What is the fact as to solicitation of membership in any union on company premises by all employees in the plant after the formation of rules?

A. I think we have posted notices to that effect.

Q. When was that posted?

A. I don't remember.

Q. I just—

Mr. Engelhard: I have it here.

Mr. Rissman: I just want the date.

The Witness: I can't give that date.

Mr. Engelhard: June 24th.

Mr. Rissman: 1937?

Mr. Engelhard: 1937.

Mr. Rissman: Thank you.

Q. (By Mr. Rissman) Prior to the date of the publishing of that notice, what was the rule of the company, if it had a rule, with reference to outside activities of employees on company premises but on their own time

625 A. Just the same as indicated in that notice, Mr. Rissman; I don't think it had ever been posted before.

Mr. Engelhard: Well,—

Mr. Rissman: Mr. Engelhard?

Mr. Engelhard: Mr. Rissman, pardon my interruption, but I find this notice has to do with the collection of dues on the premises. That is the notice of June 24th.

Mr. Rissman: June 24th?

Mr. Engelhard: Yes.

Mr. Rissman: While we are waiting, Mr. Examiner, I offer BOARD'S EXHIBITS 21 and 22 in evidence.

Trial Examiner Batten: If there is no objection, they will be received.

(Thereupon the documents above referred to, were marked BOARD'S EXHIBITS NOS. 21 and 22, respectively, and received in evidence.)

Mr. Engelhard: I don't find any statement of that kind at this time, Mr. Rissman: It may be that a further search might develop it.

Mr. Rissman: All right.

Q. (By Mr. Rissman) At any time, Mr. Falk, have you indicated to any employees in the plant a preference for the Independent Union over the Amalgamated Association of Iron, Steel and Tin Workers?

A. To the employees?

626 Q. Yes.

A. No, sir.

Q. To anybody have you indicated such a preference?

Mr. Engelhard: Now, I submit your Honor, that is highly immaterial to the issue here. He may have indicated it to his wife, he may have asked anyone, and it seems to me that is going pretty far afield in this case.

Trial Examiner Batten: I will sustain the objection. He may testify whether or not he expressed any opinion to employees, foremen or superintendents.

Q. (By Mr. Rissman) Have you indicated such a preference to anybody in the employ of the Falk Corporation?

A. Not that I can recall.

Q. Have you indicated such a preference to any superintendent?

A. I may have.

Q. And to any foremen?

A. I don't know.

Q. Pardon?

A. I don't know, I may.

Q. Have you in conversation or a meeting with any other officers or supervisory officials of the company discussed the matter of the Independent Union as compared to the Amalgamated Association?

A. Yes.

627 Q. Do you recall how recent that was?

A. No.

Q. And do you recall when and where?

A. No.

Q. Where?

A. No.

Q. Has there been a meeting of the officials of the company for that purpose?

A. No.

Q. With reference to your instructions to foremen and supervisors, Mr. Falk, as to what they may or may not do in advising employees in connection with labor organizations, do you recall a meeting or banquet of foremen that was held some time in April, 1937?

A. I know something about it, yes; I wasn't there.

Q. You were not present?

A. No.

Q. Do you know where it was held?

A. Down in some hotel as far as I know.

Q. By whom was that meeting called?

A. I think we arranged to have a lawyer down there to talk to the men.

Q. What was said, what was talked about?

A. To tell them what they must do in relation to the Wagner law, in order that they should conform to the Wagner law.

628 Q. Who was the lawyer that spoke to them?

A. I think Mr. Peck from Mr. Lamfrom's office.

Q. Did anybody speak to the employees at that meeting?

A. I don't know.

Mr. Engelhard: You mean the foremen, not the employees?

Mr. Rissman: Yes, limit it only to foremen.

The Witness: To only foremen, I thought you asked in your question, you said supervisors.

Q. (By Mr. Rissman) My question was supervisors and foremen.

Prior to that banquet or dinner attended by the foremen where they were addressed by Mr. Peck, had it been brought to your attention that certain foremen had been acting in behalf of or in favor of the Independent Union of Falk Employees?

A. Mr. Landrey once or twice mentioned it to me.

Q. Who is Mr. Landrey?

A. One of the C. I. O.

Q. President of the Local of Amalgamated Association?

A. I think so.

Q. What action was taken in response to his speaking to you about it?

A. After he talked to me about it, I talked to various foremen about it to see whether they had done such a thing and I could not corroborate the statement.

Q. The foremen denied they had been doing that?

629 A. Yes, sir.

Q. All of them?

A. Well, I only spoke to one or two.

Q. Were those the ones he had complained about?

A. I think Mr. Green was the one he complained about mostly.

Q. Mr. Green, the superintendent?

A. Yes, sir.

Q. Did you speak to Mr. Green about it?

A. I did.

Q. Did he deny it?

A. He did.

Q. Did you make any further investigation to determine if any of the foremen were so engaged?

A. No.

Q. Do you know if Mr. Green or any others made such an investigation?

A. I think they did.

Q. Do you know what they found?

A. No.

Q. Did they report to you?

A. No, they did not report to me; therefore I took it for granted that everybody was properly advised.

Q. Did you instruct Mr. Green to investigate and find out if the foremen were engaged in union activities?

A. I don't recall.

630 Q. Do you know whether the supervisory officers of the corporation, those who are subordinate in position to you are aware of your preference for the Independent union over the Amalgamated Association?

A. I think so.

Q. Do you know whether they are in accord with that preference?

A. I think they are.

Q. Do you know whether or not the foremen in and about the plant during the working hours or after or before working hours would make known that preference to the employees?

A. No, I don't think they would.

Q. Do you know what the reaction was on the part of the foremen when they were advised by Mr. Peck that they were limited in what they could and could not tell the employees with reference to union organization or union affiliation?

A. I cannot answer.

Q. Do you know or was it later reported to you in some way that the foremen, particularly the superintendents and others resented the limitation and felt that they should have

the right to express their opinion as to what labor organization the men should belong to?

Mr. Lamfrom: Even if that would be all true, what relevancy would that have upon the attitude of the company?

Trial Examiner Batten: I don't think it has any
631 relevancy because it does not make any difference how much he may resent a law, an ordinance or a regulation, the thing is, if he lived up to it.

He can go around resenting it twenty-four hours a day.
632 Mr. Lamfrom: That is right.

Trial Examiner Batten: I think the important thing is whether or not the foremen or superintendent took any affirmative action or did anything in violation of the law.

Mr. Lamfrom: That is right.

Trial Examiner Batten: I don't suppose we can assume that everybody in the United States is in hearty accord with all the laws there are.

Mr. Lamfrom: They would be pretty busy if they are.

Trial Examiner Batten: People may resent a lot of things and that is no indication they are not carrying them out.

Mr. Rissman: Except, if the Examiner please, that a foreman's resentment might manifest itself in the things he said and things he did around the plant.

Trial Examiner Batten: As to what John Jones, a foreman, did at a specific time, in the plant in violation of law, that is all that it is necessary to show, and his connection with it.

Mr. Rissman: We shall so show.

Trial Examiner Batten: Every foreman and superintendent may resent this Act and resent it very much, because oftentimes foremen and superintendents do resent changes; I mean they don't adopt new ideas readily, many of them, but the important thing is, did they do any affirmative act, did they say anything, did they give advice in the plant as
633 opposed to this law, that is the important thing.

Mr. Engelhard: Also, your Honor, as to whether or not they did so in violation of the instructions given them.

Mr. Rissman: That is entirely immaterial whether they did it in violation of the instructions, can't concern the question.

Mr. Lamfrom: Well, it concerns us though.

Mr. Rissman: Sure.

Mr. Lamfrom: As Judge Geiger once ruled, you know, there are two parties to a lawsuit.

Mr. Rissman: I don't know how Judge Geiger—

Trial Examiner Batten: I assume that you may show that, that is, I don't imagine that Mr. Rissman is going to bring out the points that you desire shown in this hearing, and therefore it leaves something for the respondent counsel.

Mr. Lamfrom: Well, judging from the thoroughness with which he has covered the ground he has not left much for us to do.

Mr. Rissman: If it is a fact that the foremen did this in violation of their instructions from Mr. Falk I think that should be made apparent now.

Mr. Lamfrom: I did not get that last.

Mr. Rissman: I say, if the activities of the foremen were in violation of instructions from Mr. Falk or instructions from the company I think that should be shown.

634 Trial Examiner Batten: I think the evidence already shows that if they did solicit members, if they did do these things during working hours, that they did it in violation of instructions because that shows now, that is, by the testimony of this witness.

I think we had better get down to this question that we have gotten away from.

What was the question?

Mr. Rissman: Read the question.

(The question was read.)

Trial Examiner Batten: I believe I shall sustain the objection to that question.

Q. (By Mr. Rissman.) As a general matter do the foremen obey or violate the rules and policies of the company with respect to their dealing with employees?

A. Will you repeat that question.

(The question was read.)

The Witness: They obey them.

Q. (By Mr. Rissman.) So that if in this connection the foremen violated the rules of the company it was in an unusual and extraordinary manner?

A. Yes.

Q. Mr. Falk, on May 1st, 1937 the company put into effect an increase in wages, a five and ten cent increase?

A. That is right.

635 Q. For various operations?

A. That is right.

Q. Was that carried generally throughout the plant?

A. Yes, all over the plant.

Q. All over the plant?

A. Yes.

Q. When did you decide to grant that increase?

A. Well, that really goes back to the Works Council days, the beginning of it.

Toward the end of the Works Council days that was discussed and practically agreed upon. Then when the Works Council went out of existence, the arrangement went out of existence with the Council because I think, as I recall the statement, that if the Works Council went out of business that this arrangement would go out with it, and any new arrangement would have to be made with such an organization as existed at the time.

That was substantially the arrangement.

Q. What was to be the effective date of the increase, Mr. Falk?

A. The original intention was to be, as of June 1st.

Q. And what prompted the company to move that date up to May 1st?

A. The meeting that you referred to some little time ago, that I had with the boys down under the hospital, I think 636 you referred to it as the meeting of April 8th.

Q. April 12th.

A. April 12th. Somebody in the group suggested that they thought it would be better if that increase were advanced one month, to the 1st of May, and as I remember the remark made to them at the time, "That is a matter I won't argue with you about, we will be willing to advance that to the 1st of May."

Q. Was the person who made that statement John Wilfeer?

A. I am not sure about that; he may have.

Q. It was made in the presence of 15 or 20 men who were there?

A. Yes, it was.

Q. It was indicated by John Wilfeer's question to you, in addition to what you have related, if that increase was advanced from June 1st to May 1st it would keep a lot of men from going into the C. I. O.?

A. No.

Q. Was anything said about the C. I. O. at that time?

A. In that particular connection?

Q. In connection with the raise.

A. Not that I recall, no.

Q. But you don't recall it you say, or it wasn't said?

A. I would say no.

Q. The raise was actually granted May 1st?

637 A. Yes, it was.

Mr. Lamfrom: What did that mean in dollars and cents to the corporation per year?

Trial Examiner Batten: Now, I don't want to restrict counsel, but everyone will have their turn, but I think that if we—

Mr. Lamfrom: I don't believe it is good practice either to interject questions when other counsel is examining, but once in a while a little question can either clear up or illuminate the path along which we are going and it is only in an instructive purpose that I do that.

Trial Examiner Batten: I realize that, of course, and I assume it is rather a substantial amount of money because after all no concern could give an increase without it costing money.

Mr. Lamfrom: And that was substantial.

Trial Examiner Batten: I think probably we will get along faster—

Mr. Lamfrom: All right.

Mr. Rissman: We don't question the wages.

Mr. Lamfrom: You don't question the wage policy of the company?

Mr. Rissman: No.

Mr. Lamfrom: Well, that is very nice, that is something.

638 Mr. Rissman: I am not bad.

Mr. Lamfrom: Yes.

Q. (By Mr. Rissman.) Mr. Falk, you stated that in connection with that increase it was understood that because of the Works Council going out of business the matter of the raise would have to be taken up with any new organization that came to the plant?

A. Yes.

Q. Was it taken up with the Independent Union?

A. They took it up with us.

Q. They took it up with you?

A. Yes.

Q. The raise was granted after they took it up with you?

A. Yes, sir.

Q. Although it was contemplated that raise would be

granted even before there was an independent union at the plant?

A. No, I tried to make it clear to you that the original agreement that we made with the Works Council was made in contemplation of the Works Council going on in existence.

That was before, as I recall, quite some time before the Wagner Act, when it was under discussion in the court.

Q. Yes.

A. I think if you will refer to your minutes you will find the conversations very definitely recorded where I said to the fellows that if the Works Council went out of business, that new negotiations would have to be opened up for the wage increase.

Q. Would that increase have been given if there were no negotiations by the Independent Union or if there were no Independent Union at all?

A. I don't know, I am not so sure it would.

Q. Is it proper to say that the credit for the raise is due entirely to the Independent Union, if any credit is due to that?

A. Well, it was brought up, I don't know who suggested—who should get the credit for it, if they shouldn't.

Q. At the time the matter was taken up with the Independent Union or the Independent Union took it up with the company was there a C. I. O. organization in the plant?

A. I don't recall just when the C. I. O. organization began there, I don't remember; I think there was, however.

Q. Did the company contemplate what effect on the organization activities of the Amalgamated Association of Iron, Steel and Tin Workers it might have if the company granted the raise originally requested by the Works Council now at the instance of the Independent Union?

A. No.

Q. Directing your attention to May 5, 1937, on that date you had a meeting in the Eagles Building, the Eagles Club building in Milwaukee with representatives of the Amalgamated Association of Iron, Steel and Tin Workers?

A. That is right.

Mr. Lamfrom: Why don't you introduce that whole business into the record?

Q. (By Mr. Rissman) And you represented the company at that conference?

A. I beg your pardon?

Q. You were there on behalf of the company?

A. I was there.

Q. Who else?

A. I think Mr. Connell was there, Mr. Green was there, and Mr. Henderson was there.

Q. Who is Mr. Henderson?

A. He is superintendent of the erecting No. 3 shop.

Q. Go ahead.

A. That is all I can recall.

Q. Some of your foremen were present?

A. I don't recall whether there were any more there or not.

Q. Who was there on behalf of the Amalgamated Association of Iron, Steel and Tin Workers?

A. Well, I couldn't name who was there; according to what Mr. Landry asked me at the time, there were about 23 of the fellows there.

Q. Was Mr. Meyer Adelman there?

A. Yes, he was.

641 Q. And the company was also represented by Mr. Leo Mann, an attorney?

A. That is right.

Q. Do you recall how that meeting was arranged, who arranged it and what the purpose of it was?

A. Mr. Landry came to me and asked me whether they would have a meeting with us and I said "Yes."

Then when he said there were to be 23, well, I said, "We haven't any place to have a convention here. If you want to have a convention you will have to go to a hotel"—

Mr. Engelhard: Will you talk a little louder so that we can hear you.

The Witness: When we finally decided to have the meeting we thought the place to have it was up in the Eagles' Hall, because we really had no place to accommodate that many people; so it was decided to have it at the Eagles Hall.

Q. (By Mr. Rissman) Who was to be present at that meeting when Mr. Landry made the arrangements with you, what was your understanding?

A. My understanding was that he wanted to have all the stewards in the shop there who were C. I. O. stewards.

Q. Who did you bring with you when you came to the meeting or who did you invite to come?

A. We invited about half a dozen of our employees to come.

110 *Witnesses for National Labor Relations Board.*

Q. Which employees? I don't mean by name—

642 A. Well, they were—

Q. But, whether they were stewards or some other employees.

A. Well, they were fellows in the Independent Union.

Q. Did they come up?

A. They did.

Q. Tell us now that you mentioned it, what is there about the fellows in the Independent Union, as to whether or not they were active members of the Works Council during the time of its existence?

A. If you will state that question a little more definitely—

Q. Is it not a fact that the present officers of the Independent Union or at least most of them are the same men who were active on behalf of the Works Council during its organizing and existence?

A. No, I don't think so.

Q. Isn't Leslie Greget an officer of the Independent Union?

A. I don't know.

Q. Isn't he one of the representatives who met with you?

A. He did at the very beginning.

Q. If not one of the officers he was one of the organizers?

A. Yes, I think he was.

Q. Now, tell us as best you can what occurred at this meeting in the Eagles Hall.

Q. Mr. Engelhard: I submit, your Honor, that meeting, there is a transcript of that meeting. That was a long discussion—
643

Trial Examiner Batten: Might I ask, Mr. Rissman—

Mr. Engelhard: 40 or more pages.

Trial Examiner Batten: What is the purpose of this, I mean from the standpoint, it is to show negotiations?

Mr. Rissman: It is to show the attitude of the company with reference to demands for collective bargaining made upon it by the Amalgamated Association.

Trial Examiner Batten: Well, might I ask this: is there a written transcript of the meeting?

Mr. Engelhard: There is.

Mr. Rissman: There is, but there is so much in that written transcript that should not be there or in any other transcript, that I hesitate to offer the transcript.

Trial Examiner Batten: I was going to suggest, if there is a transcript that you introduce and the Examiner will be

glad to take it and read it and I can probably draw some conclusions from the statements which are made there by the various parties.

Mr. Rissman: Will you stipulate that this is the transcript?

Mr. Lamfrom: I just want to look at it first.

Mr. Rissman: May I state quite generally—

Mr. Lamfrom: I will ask you, Mr. Falk, did you agree to furnish Mr. Adelman with a copy of the transcript of 644 proceedings?

The Witness: Yes.

Mr. Lamfrom: Of the meeting. And I will ask you to take a look at this document I hand you, and can you state to the best of your knowledge that is the transcript of the proceedings?

Trial Examiner Batten: That has the reporter's name on it.

Mr. Rissman: Yes, the reporter's name is in there.

Mr. Engelhard: I think his name is Cross.

Mr. Lamfrom: There is no question, we will stipulate that may be offered and admitted in evidence as the record of the meeting between the parties mentioned in your question, meeting of May 5th, 1937 at the Eagles Club in the City of Milwaukee, Wisconsin, commencing at ten o'clock a. m. and when it ended, I don't know.

Mr. Rissman: Will you further stipulate that was all the collective bargaining that existed between the corporation and the Amalgamated Association of Iron, Steel, and Tin Workers?

Mr. Lamfrom: I will stipulate that since that time Mr. Falk or the Falk Corporation have not been approached by the C. I. O. or any of their representatives for further collective bargaining.

Mr. Rissman: You are evading the question.

645 Mr. Lamfrom: Then bring it out.

Q. (By Mr. Rissman) At that meeting contained in this transcript, Mr. Falk, was any action—

Mr. Lamfrom: That is number what?

Trial Examiner Batten: Exhibit 23.

Mr. Lamfrom: That is an appropriate number for this exhibit.

Mr. Rissman: That was before my time.

The Witness: Well, I think, Mr. Rissman, that we advised

Mr. Adelman at the time that we had already given bargaining rights to the Independent Union and that according to the law there was nothing we could do about it, unless he preferred to have an election, in which case he had the law to go to; we couldn't stipulate one, and if he wanted one he could have one.

I think the sum and substance of the meeting is summed up in that practically.

Q. (By Mr. Rissman) Can you tell us what the purpose of the meeting was as expressed to you by Mr. Landry when Mr. Landry arranged for the meeting?

A. I don't recall what he asked. He asked me whether we would have a meeting with them for the purpose of collective bargaining, as I recall it, that was as far as it went.

Q. And the meeting as reported in some 55 pages of transcript, consisted of Mr. Mann telling Mr. Adelman that 646 because of the letter to the Independent Union the Falk Corporation had already obligated itself and could not enter into bargaining with the Amalgamated Association?

A. Substantially that, yes, sir.

Q. And Mr. Adelman protested that he was not interested in any letter to the Independent Union because the Independent Union was a company union and was not a labor organization at all?

A. That is what he said.

Mr. Lamfrom: And Mr. Mann and Mr. Adelman entered into a metaphysical discussion of their own minds on the Wagner Law, is that right?

The Witness: There were some metaphysical discussions on the men we were recognizing—

Trial Examiner Batten: Apparently some of these same issues came up in this meeting that are present in this hearing.

Mr. Lamfrom: That is it.

Mr. Engelhard: The transcript shows clearly Mr. Adelman did not demand exclusive bargaining rights and did not claim he represented a majority.

Trial Examiner Batten: I presume after I have read it I will be able to determine what the attitude of the parties was.

(Discussion off the record as directed.)

647 Q. (By Mr. Rissman) Can you tell us, Mr. Falk, why the Independent Union men were present at that meeting at your invitation?

A. Well, I thought that if they were going to have their gang, I would have a few guys hang around with me too.

Q. And why, Mr. Falk, was it necessary for the company at that meeting, a meeting for collective bargaining between the company and employees, representatives of the employees, was it necessary to have Mr. Mann present?

Mr. Lamfrom: Now, your Honor—

Mr. Engelhard: Let him answer that, go ahead.

Mr. Lamfrom: I think the court will take judicial notice why lawyers are present at any meetings.

Trial Examiner Batten: Well, do you want me to express my view on that?

The Witness: I will answer that question.

Q. (By Mr. Rissman) Was there any particular reason?

A. Yes, I think there was; if these fellows are going to get in some outside professionals to argue for them, I am going to do the same thing.

Q. You didn't feel there was anything wrong with you in taking an outside professional to represent you in collective bargaining negotiations?

A. No.

Q. Do you feel now there is anything wrong with 648 employees engaging outside professionals to represent them?

A. I said when they did it, then I did it.

Q. You thought it was wrong for them to do it?

A. I would rather do business with them alone.

Q. Just as they would rather do business with you alone?

A. I don't know.

Q. Did you feel that with the assistance of an outside professional to represent you, namely, the attorney, you could more effectively meet any problems that were raised and take up matters that might be taken up in such a conference?

A. What are you talking about now?

Q. The meeting of May 5th.

Mr. Rissman: Will you read the question, please.

(The question was read.)

The Witness: I will answer that, yes.

Q. (By Mr. Rissman) Don't you believe that your employees likewise feel that in meeting with their employer on matters of collective bargaining they might bargain more effectively and take up matters of collective bargaining if they have an outside professional, namely, their labor organizer?

A. They probably do or they would not have him.

Q. Was there any reason for your choice of your attorney that you had at that time?

Trial Examiner Batten: Now, I don't know, is that 649 particularly material? I think a man has a right to go out and select his attorney. I don't know if it would make any particular difference; Mr. Rissman, how he happened to select Mr. Mann.

Mr. Rissman: Well, it might.

Trial Examiner Batten: Unless there is something with relation to the issue in this case.

Mr. Rissman: The selection of Mr. Mann might have been prompted by matters other than Mr. Falk's personal selection of an attorney.

Trial Examiner Batten: Well, if that is the case you may show what those other things are.

Mr. Rissman: Who can better show it than Mr. Falk.

Trial Examiner Batten: But even granting that he was selected because he was particularly familiar with this situation and had previously represented some other association which made him competent to act, I don't see how that has any bearing, any particular bearing on his selection here.

Mr. Rissman: If the Examiner feels it is objectionable I will withdraw the question.

Trial Examiner Batten: What I am getting at is, if it relates to the issue I will allow it to be brought out, but that is the thing I don't see.

Mr. Rissman: In labor bargaining, Mr. Examiner, it is my feeling, and I believe the feeling of others that even 650 such as the matter of the selection of an attorney indicates the position and attitude of the company particularly—

Mr. Lamfrom: I don't think that.

Mr. Rissman: Particularly where it is known as it is in Milwaukee that the attorney is one who is famed for his activities in opposition to labor organizations.

(Discussion off the record as previously directed.)

Mr. Lamfrom: We object to the particular question addressed by counsel.

Trial Examiner Batten: I will sustain the objection to that question.

Q. (By Mr. Rissman) When you selected Mr. Mann as attorney did you know he was reputed to be a lawyer opposed

to labor organizations, and particularly the, C. I. O. labor organization?

Mr. Engelhard: That is objected to as irrelevant, incompetent and immaterial.

Trial Examiner Batten: I will sustain the objection.

I think we will adjourn until nine-thirty tomorrow morning, gentlemen.

(Whereupon, at 4:55 o'clock p. m., August 16th, 1937, the hearing in the above entitled matter was adjourned until August 17th, 1937, at 9:30 o'clock a. m.)

654 BEFORE THE NATIONAL LABOR RELATIONS BOARD.

• • (Caption—XII-C-57 and XII-R-85) • •

Room 409, Milwaukee County Courthouse,
Milwaukee, Wisconsin.

August 17th, 1937.

The hearing was resumed, pursuant to adjournment, at 9:30 o'clock A. M.

Before:

James C. Batten, Trial Examiner.

Appearances:

Robert R. Rissman and S. G. Lippman, Attorneys, on behalf of the National Labor Relations Board.

A. G. Goldberg, 511 Warner Building, Milwaukee, Wisconsin, appearing for International Union of Operating Engineers, Local No. 311.

Giles F. Clark, of Alexander, Burke & Clark, 110 East Wisconsin Street, Milwaukee, Wisconsin, appearing for Independent Union of Falk Employees.

Lamfrom, Tighe, Engelhard & Peck, by Mr. Leon B. Lamfrom, and Mr. A. J. Engelhard, appearing for the Falk Corporation.

655 PROCEEDINGS.

Trial Examiner Batten: I think we will proceed, gentlemen.

Mr. Goldberg: Mr. Examiner, I have here an amended

petition for intervention, and ask that it be admitted as Local No. 311 Exhibit 1.

Do you want to put that in as one of your exhibits, Mr. Rissman, or do you want to have it marked Local 311?

Mr. Rissman: It does not make any difference, I don't think it makes any difference whether it is a Board's Exhibit or your Exhibit.

Trial Examiner Batten: No. I think you may take this into the record please.

The Trial Examiner has received an amended petition for intervention which more specifically sets forth the complaint of the International Union of Operating Engineers, Local 311, against The Falk Corporation.

The amended petition has been served upon The Falk Corporation's attorneys, is that correct?

Mr. Lamfrom: That is correct.

Trial Examiner Batten. And it is understood that they will have until Wednesday morning, August 18th, to prepare an answer thereto.

(Thereupon the document above referred to was marked LOCAL 311'S EXHIBIT NO. 1, and received in evidence.)

656 Trial Examiner Batten: I believe we are ready to proceed.

HAROLD S. FALK, a witness called by and on behalf of the National Labor Relations Board, being previously duly sworn, resumed the stand and further testified as follows:

Direct Examination (Continued).

Mr. Rissman: Mr. Reporter, have you the last question that I asked yesterday?

(The record was read.)

Q. (By Mr. Rissman.) Do you know Anton Kinch?

A. Yes.

Q. How long have you known him about?

A. Oh, I guess four or five years.

Q. Anton Kinch was a former employee of The Falk Corporation?

A. That is right.

Q. Who was discharged by you on December 31, 1936?

A. That is right.

Q. And do you know that he worked for the corporation for approximately seven years before his discharge?

A. About, yes.

Q. Do you know that Anton Kinch was a member of the Works Council of the Falk Corporation?

A. Yes, sir.

557 Q. One of the employee representatives?

A. Yes, sir.

Q. Do you recall, Mr. Falk, during Mr. Kinch's term of office as an employee representative on the Works Council he presented to the Works Council for consideration of the company a plan of reclassification of employees and work?

A. That is right.

Q. Do you recall any conversation you had with Mr. Kinch with reference to that plan?

A. Prior to his having submitted it to the Council or afterwards?

Q. Well, do you recall whether or not there were any conferences prior to his submitting it?

A. Yes, there was.

Q. What was the nature of the meeting between you and Mr. Kinch prior to its submission to the Council?

A. Well, Mr. Kinch came in to the office I think at my request, as I recall it.

Mr. Lamfrom: I will give you these papers to refresh your memory as you go along.

The Witness (Continuing): And we discussed some general things that Mr. Kinch had on his mind at the time, and he said that he thought that some of the things that we were doing in the plant were not just right, that if we provided the proper incentive for our men they could do 30 658 per cent more work, or something to that effect; we had a general discussion of it, the details of it I don't recall, but I do remember very distinctly that I asked Mr. Kinch at the time whether he had a plan and he said he did, and I asked him what it was, and he said that it was not in shape.

I then said to Mr. Kinch, "Suppose you reduce your plan to writing and when you have gotten it in shape, let's you and I sit down and discuss it, and if you have got anything in that plan that is worth making use of, that we can get some benefit out of and the men can get some benefit out of, I will be glad to discuss it with you."

Q. (By Mr. Rissman.) You say Mr. Kinch came to you, or did you send for him?

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A. I don't recall, Mr. Rissman, what the circumstances were; I am inclined to think that I asked him to come into the office, although I am not sure about it.

Q. Did you know before he spoke to you in the office that he had some suggestion with reference to the earnings of men and different types of work?

A. Well, I knew he had something on his mind but I didn't know just what it was.

Q. Did Mr. Kinch reduce the plan to writing?

A. Later he did, yes, sir.

Q. And presented it to you?

A. Yes, sir.

659 Q. Do you recall the tenor of the plan and some of the reclassifications that would alter the policy of the company in its relation with the workers, just in a general way?

A. Well, his idea was to establish A, B, C, D grades for various different workers in the different departments, and those grades he had set up, as I recall it, with a rate classification or something to that effect.

I have the thing before me here, and you probably have it also. That is substantially what it was.

Q. Did you know of any activities of Mr. Kinch in and about the plant with reference to the plan prior to the time you had your first meeting with him?

A. Prior to the time of the first meeting?

Q. Yes.

A. No.

Q. Didn't you know, or weren't you advised by your superintendent or other officers of the corporation that Mr. Kinch had been submitting a petition and plan for the men to sign indicating their approval of the classification plan?

A. That was after the meeting that I have discussed with you just a moment ago.

Q. At the first meeting—that is, after the first meeting or after the second meeting?

A. I think it was after the second one, because I had a meeting previous to that with him too.

660 Q. Did you go over the plan with Mr. Kinch in the second meeting?

A. No, he didn't have it reduced to writing at the second meeting, we just discussed it at that time.

Q. Where did you see Mr. Kinch, and what time of day was it?

A. I have no idea.

Q. Do you recall that there was one meeting in your office when Mr. Kinch stated if you wanted to talk about the plan he suggested it be on his own time, and there was an appointment made for some time later in the evening?

A. I did talk to him one evening, yes.

Q. After the plan was discussed between you and Mr. Kinch, do you know if it was presented to the Works Council?

A. It was later.

Q. And was it openly presented to the company for its consideration?

A. Yes.

Q. What action was taken with reference to it?

A. As I recall, I answered it in writing to the Works Council.

Q. Was it an approval or disapproval of the plan?

A. It was disapproved.

Q. In its entirety?

A. Not exactly, I think there were some spots in it
661 that were—

Q. Your answer in writing was made to the Works Council at a meeting of December 10th, 1936?

A. I haven't the date on this sheet.

Mr. Engelhard: We will stipulate to that as to the date.

Mr. Rissman: Thank you.

Trial Examiner Batten: Mr. Rissman, do you propose to introduce as an exhibit the written plan and written answer to it?

Mr. Rissman: Yes, Mr. Examiner.

Mr. Lamfrom: You have got it in your hand, why don't you do that now.

Mr. Rissman: I don't have the plan in hand now.

Q. (By Mr. Rissman.) Is the plan contained in the answer, Mr. Falk?

A. No, there is reference to sections, but the plan is not contained in there; the proposal is entirely separate.

Q. (By Mr. Engelhard.) Mr. Falk, have you the document there that is entitled "Proposal"?

A. Yes.

Mr. Engelhard: Well, that is the plan.

Mr. Lamfrom: Let's use the one that Mr. Rissman has, Mr. Falk.

Mr. Rissman: I ask to have this marked Board's Exhibit

No. 24 for identification, being the minutes of the 41st meeting of the Works Council, containing the proposal and statement addressed to the Works Council, signed by The Falk Corporation, the minutes of the meeting of the Works Council indicating also a vote of the representatives and the company's answer.

(The document referred to was marked Board's Exhibit No. 24, for identification.)

Q. (By Mr. Rissman.) I will ask you, Mr. Falk, if that contains the plan as submitted to you and the answer of the company?

A. That is right.

Mr. Engelhard: Now, are the three numbered Exhibit No. 24?

Mr. Lamfrom: I just want to get our copy back.

Mr. Rissman: Mr. Falk has yours.

Mr. Lamfrom: Are they the same?

Mr. Rissman: Yes.

Mr. Lamfrom: All right.

Mr. Engelhard: Mr. Rissman, are all three marked Exhibit 24?

Mr. Rissman: Yes, they are all pinned together, clipped together.

Mr. Engelhard: All right.

Q. (By Mr. Rissman.) After the answer of the company was submitted to the Works Council and the Works Council acted on that answer as indicated by Exhibit No. 24, did you ever have any further conversation with Mr. Kinch?

A. I don't think I did until the end of the year.

Q. And that was on December 31st when he was discharged?

A. That is right.

Q. Can you tell us what conversation took place between you at the time, and where?

A. The conversation took place in my office about noon time as I recall it.

Q. And what was said?

A. Well, we discussed very general questions for a few minutes, and then I told Mr. Kinch that I thought the interests of the company would best be served if he severed his connection, to which he responded "That is all right with me, if you will have my check ready I will leave."

I said to Mr. Kinch then, "Your check is ready".

He got up and shook hands with both Mr. Connell and myself, and said "Good bye, no hard feelings", and left.

Q. What did—

A. In addition to that I advised him that compensation—unemployment compensation was due him also. I thought that it was only right that he should know that, and I advised him of that fact.

Q. What was the reason for the necessity of the severance of Mr. Kinch's connection with the company?

664 A. Well, first of all the original arrangement that I had with Mr. Kinch, that if he would reduce his plan to writing and bring it in to me before anything was done with it, we would have a discussion on it.

Instead of doing that, Mr. Kinch started to circulating petitions around the plant which was going around on company time, which was against the rules.

Q. Against what rules?

A. Against office rules.

Q. Were there ever any such rules posted?

A. No, sir.

Q. How did the rules get known to the employees?

A. I think a man should know when he is hired to do a job he is supposed to do the job and not do anything other than that on company time.

Q. I will ask you again how was Mr. Kinch or any other employee of the company to know that it was against the rules of the company to circulate a petition on company time?

A. We didn't hire him for that purpose.

Q. Was there any way he would know it was the rule of the company not to circulate petitions on company time?

A. I think his good judgment should tell him that.

Q. Was there any way he would have of knowing?

A. I think when you hire a man for a job he ought to know that is the job he is supposed to do.

665 Q. Did you ever tell Mr. Kinch it was against the company's rules to circulate a petition on company time?

A. No.

Q. Do you know if any of your foremen or superintendents ever told him that?

A. No, I do not.

Q. Pardon?

A. I do not.

Q. You say there was no notice posted to that effect?

A. No.

Q. Are there any written rules distributed among the employees?

A. No.

Q. Or were there at that time?

A. No.

Q. Continue with your narrative about Mr. Kinch's activities. I interrupted you on the question of rules.

Mr. Lamfrom: What were the other reasons for Mr. Kinch's discharge?

Q. (By Mr. Rissman.) That is right.

A. Well, the circulating of the petition, and his continued activity pressing the question among the men, mostly when they were working on company time, and Mr. Kinch was in the time before he was required to be at the plant and he was interfering with men in the plant and in that way 666 interfering with our work.

Q. How was that interference brought to your attention?

A. Through the superintendent.

Q. Mr. Green?

A. Yes, sir.

Q. What were the reports Mr. Green made to you with reference to that interference?

A. Well, that he had been talking to various men on machines in the morning while they were supposed to be working, and his hours had not begun.

Q. Did Mr. Green report that Mr. Kinch's talking to the men interfered with the performance of their duties?

A. Yes.

Q. When did Mr. Green first make such a report to you, Mr. Falk?

A. I don't remember.

Q. Was it before or after the proposal was submitted to the Works Council?

A. I think after.

Q. How long after?

A. I don't know.

Q. How long before the company's answer?

A. I don't know.

Q. How long before the date of his discharge?

A. Oh, I would say a month or two.

667 Q. Why did you wait a month or two before talking to Mr. Kinch about it or taking any action with reference to it?

A. Mr. Kinch was talked to by men in the plant, not by me.

Q. When you say "the men in the plant," whom do you mean, Mr. Falk?

A. I mean Mr. Green, the foremen and others responsible.

Q. Do you know what they told him?

A. No, I do not.

Q. Do you know if they ever warned him against his conduct?

A. They told me they did.

Q. The matter they told him about specifically were what, if you know?

A. That I don't recall.

Q. Were there any other reasons for Mr. Kinch's discharge?

A. No.

Q. Can you recall anything further you said to Mr. Kinch on December 31, 1936?

A. No.

Q. Prior to the time that Mr. Kinch engaged in these activities, prior to the time he submitted the reclassification proposal to you, and sought the signatures of his fellow workers for approval of such reclassification, what kind of an employee was Mr. Kinch in the eyes of the company?

A. He was a fair worker.

Q. Had you ever had occasion to talk to Mr. Kinch 668 about his conduct in the plant?

A. Not to my knowledge.

Q. Do you know of any other supervisory officials of the company inferior in position to you that talked to him about his conduct in the plant?

A. I do not.

Q. Do you know Mr. Kinch's record as a workman with reference to the quality of his work?

A. I have been advised by the men in charge that he was a fair worker.

Q. Do you know that Mr. Kinch was employed steadily throughout the depression at your plant?

A. Yes.

Q. And that when other employees were laid off because of the lack of work Mr. Kinch was kept on because he was such a good worker?

A. I am not sure about that, I don't know.

Q. Well, do you know he was kept on?

A. Well, I haven't knowledge that he worked every day, that I don't know.

Q. During the time that Mr. Kinch was a member of the Works Council, did you have any conversations with him regarding his activities as a member of the Works Council?

A. I don't recall.

Q. Do you know how Mr. Kinch happened to be elected 669 to the office of representative on the Works Council?

A. No.

Q. Do you know that he was solicited for that office by his foreman and by Mr. Hydar, your personnel director?

A. No.

Q. Didn't Mr. Hydar or any other employer representative of the Works Council ever speak to you about Mr. Kinch?

A. Not that I recall.

Q. Aside from the meetings of the Works Council, did you know in any way of the activities of Mr. Kinch as a representative of the Works Council?

A. I am sure of these activities of course, they came to my attention because I discussed them in the office.

Q. In addition to these, Mr. Falk.

A. No.

Q. Do you know, or can you tell us about the time Mr. Kinch spoke to you with reference to overtime pay for workers, the question that he took up with the Works Council and then was referred to you?

A. I don't recall that conversation.

Q. Do you recall any conversations or meetings with Mr. Kinch during the time he was a member of the Works Council where you and Mr. Kinch discussed matters relating to the working conditions of employees?

A. Other than the meeting I have referred to?

670 Q. Other than these.

A. No, I don't.

Q. Do you know of any reason why at the present time The Falk Corporation could not rehire Mr. Kinch?

A. Yes, I do.

Q. What are those reasons?

A. I think Mr. Kinch is a very decided disturber.

Q. What do you mean by "disturber"?

A. Well, going around among the men and circulating a lot of stories, and doing a lot of talk that creates a lot of unrest.

Q. Have you in mind any stories that he had circulated?

A. What I have told you, yes.

Q. What you have told us?

A. Then he was constantly talking about the earnings of the company and earnings of the individual men and prying into the affairs of the company to an extent that we believed did not do our morale any good in the factory.

Q. And to what extent or in what manner did he pry into the affairs of the company?

A. Well, that is pretty hard for me to answer.

Q. Were those some of the reasons for his discharge?

A. They were some of them, yes.

Q. Have you anything specifically in mind, any specific instance of where he pried into the affairs of the company?

671 A. I was given that information by the foremen and superintendents in the plant.

Q. Had the foremen and superintendents ever reported to you or did you ever know of your own knowledge that when Mr. Kinch spoke of the affairs of the company he made any mis-statements of fact with reference to the earnings or business or things of that sort?

A. I don't know, he didn't make them to me.

Q. Had it ever been reported to you the statements that he did make?

A. Yes, they were reported.

Q. And did those reports, Mr. Falk, indicate that Mr. Kinch was speaking truthfully about the affairs of the company?

A. No.

Q. Did they indicate he was speaking mistakenly?

A. Yes, sir.

Q. Now, did you ever talk to Mr. Kinch about those activities?

A. No.

Q. Do you know if any other supervisory officials in a lesser position than yours spoke to him?

A. No, I do not.

Q. And do you know whether or not in these disturbing activities that you said Mr. Kinch engaged in, he was engaging those activities for himself or in behalf of his fellow
672 workers?

A. I have no way to know that, Mr. Rissman.

Q. Do you know whether the result he sought to obtain and did obtain, if any, were of benefit to himself personally or were of benefit to his fellow workers?

A. I don't know.

Q. Do you know if this reclassification proposal that he submitted to you would have benefited him personally or would have benefited a great number of workers in the plant?

A. I never stopped to analyze it to the extent whether it benefited him personally.

Q. Then would you say it would benefit a number of workers in the plant?

A. I can't see how it could.

Q. Do you think he felt it would benefit a number of workers in the plant?

A. He may have, I don't know.

Q. Did you at any time during your discussion with Mr. Kinch or knowledge of his activities with reference to the proposal, ever question his motive in making such a proposal, whether or not he sought personal gain or whether or not he simply figured that what he was doing was for the benefit of the workers?

A. I did not question him but he told me a number of times he was not interested himself at all; he was only interested in the other people.

Q. Did you have any occasion to doubt that as your belief, based upon his activities and what you know and saw?

A. Well, ordinarily human beings are not quite as charitable as that as a rule.

Q. We are talking now about this particular case.

A. Yes, I do.

Q. You believed he was sincere?

A. No, I did not understand the question.

Q. That is what I mean, did you believe he was sincere in what he stated to you was the purpose of his activity?

A. No.

Q. You believed he sought personal gain?

A. I did.

Q. How could Mr. Kinch gain personally, assuming that the company had adopted his suggestion—had adopted his suggested proposal?

A. I suppose by getting into the classification that would bring the highest rate.

Q. Do you know what Mr. Kinch's rate was with reference to the other workers doing the same type of work?

A. No, I don't.

Q. Do you know whether it was higher or lower?

A. No.

Q. Do you think it was—was it necessary for him, Mr. Kinch, if he sought personal gain or personal adjustment of his rate, to establish an elaborate reclassification covering a number of employees?

A. No.

Q. If he had any particular grievance as to his rate, he could have had that adjusted, could he not?

A. Yes, sir.

Q. If it warranted adjustment.

A. Yes.

Q. Aside from Mr. Kinch's disturbing influences, do you know of any reason why he could not be re-employed by the Falk Manufacturing Corporation at the present time?

A. Except that I think it would be a very disturbing factor if Mr. Kinch were in the plant again.

Q. Assuming now that Mr. Kinch has been cleansed now of his disturbing influences—

A. Pardon, I didn't get that.

Q. Assuming that Mr. Kinch has been cleansed of his disturbing tendencies and influences, do you think his ability as a worker would entitle him to re-employment in your plant?

A. I said he was a fair worker, he does his job fairly well.

Q. The only reason you feel he should not be employed is because of his activities as demonstrated by this reclassification proposal and prying into the affairs of the company.

675 A. I guess that is about right.

Q. Has the company found it necessary within the past three or four years to rid itself of any other disturbers there, men with disturbing influences?

A. We had one case where we let three men go.

Q. When was that, Mr. Falk?

A. I don't remember the date; it was on a Saturday morning, I remember that.

Q. Recently, or some time ago?

A. Some months ago.

Q. Are those the three men who were reinstated after a conference between the Regional Director and Mr. Lamfrom?

A. That is right.

Q. Have those men ceased their disturbing activities?

A. So far as I know, yes.

Q. They are conducting themselves as proper Falk employees should conduct themselves?

A. I think so.

Q. And why do you believe that if Mr. Kinch were reinstated he could not readjust himself as these three men did?

A. That is a pretty difficult question, I just have that opinion.

Q. Is it because, if I may state your opinion, you feel that Mr. Kinch is an influential man among the workers and is recognized by them as a person who is able to advise them 676 and lead them in matters of adjustment, and other matters?

A. No, I wouldn't say that.

Q. Is it because Mr. Kinch has an inquiring mind into the earnings and affairs of the company?

A. No.

Q. Is it because Mr. Kinch has, as he has demonstrated, the ability to suggest and propose certain reclassification of earnings of the men?

A. No.

Q. Then just what is it?

A. I think it is his personality, if you want my opinion of it.

Q. What are the dominating factors in his personality that would disqualify him for employment by your company?

A. I can't describe that.

Q. Do you know what department of the plant Mr. Kinch represented during his tenure of office on the Works Council?

A. He worked in No. 3 Shop which is our Erecting Shop and I think he represented that group over there.

Q. About how many men did he represent?

A. Oh, I can't answer that, I don't know.

Q. Do you know if there was an election following Mr. Kinch's discharge for a new representative on the Works Council?

A. No, I don't know.

677 Q. Can you not say then, Mr. Falk, that the prime reason for Mr. Kinch's discharge, for the necessity of the company's severance of his duties with the company, was, first, his activity in presenting this reclassification proposal, and secondly what you term his prying into the affairs of the company?

A. No, the proposal had nothing to do with that.

Q. Was it in connection with his attempt to get signatures on the petition for approval of the proposal that led to his discharge?

A. Part of it.

Q. And the other part?

A. His constantly going among the men when they were on duty.

Q. Do you know what he was going among the men for?

A. Except what I was told.

Q. What were you told he was going among the men for?

A. Trying to get their signatures to this proposal and disturbing them at their work.

Q. That is what I mean. The only reason then for his discharge was his attempt to get signatures from men during their working hours in approval of his plan?

A. And in addition the fact he did not live up to the original agreement with me that he would come back to my office when he had his plan reduced to writing.

678 Q. Was it necessary for a Works Council representative to take up with the employer matters that representative thought should be taken up with the Works Council?

A. No, it was not.

Q. Wouldn't that in itself, that system of requiring consultation and conference with you defeat the purposes of the Works Council, as to its purpose to act as a collective bargaining agency?

A. I don't think so.

Q. Do you feel that before taking matters up collectively an employee representing a number of employees in your plant should submit such proposal to you for approval or clarification?

A. Not normally, but when a man makes a statement—when a man makes an agreement with me, I expect him to live up to it.

Q. How did he happen to come to you in the first place with this proposal?

A. I don't recall, I may have asked him to come. He probably can tell you more about that than I can.

Q. (By Mr. Lamfrom.) Mr. Kinch said to you that he would come back to you with the proposal?

A. My original proposition to Mr. Kinch was that when he had reduced the plan to writing, I would like to have him come back and sit down and discuss it with him, which
679 he agreed to.

Q. And he said he would.

A. He did.

Q. And he did not.

A. He did not.

Q. (By Trial Examiner Batten.) Do you mean that at no time did he discuss with you the written proposal?

A. Not until it came before the Works Council.

Q. In other words, until it was presented to the Works Council he had never discussed the written proposal with you?

A. Not the written proposal, no, sir.

Q. (By Mr. Rissman.) Prior to the time Mr. Kinch came to your office, either on his own initiative or your invitation, did you know he had in mind any reclassification proposal?

A. No.

Q. Didn't you know that prior to that time he had spoke of such a proposal at a Works Council meeting?

A. No.

Q. Didn't you know that he was attempting to get the consensus of opinion of the employees with reference to such a reclassification?

A. Where, at the Works Council meeting?

Q. At the Works Council meeting and in the shop.

A. I knew about it in the shop afterwards, yes.

Mr. Rissman: May I have the answer read?

680 (The answer was read.)

Q. (By Mr. Rissman.) You mean after he talked with you?

A. Yes.

Q. But prior to the time of your meeting with him, prior to the first meeting, did you know that he had taken up this proposal or discussed it with representatives on the Works Council?

A. Mr. Rissman, he had no proposal prior to the time that he discussed it with me in the office, because I asked him for it and he said he had not reduced it to writing.

Q. I don't mean a written proposal, I mean he had suggestions as to the reclassification.

A. They were very vague at the time he was in my office. The statement he made to me in my office was that if we would provide proper incentives our men could do 30 per cent more work, that was a general demand, and he had not reduced it to any plan at all at that time.

Q. And do you know whether he made any such statement, even vague statements as that to the representatives of the Works Council?

A. No, I do not.

Q. That had never been reported to you?

A. No.

Q. When did Mr. Kinch—when did Mr. Kinch's disturbing tendencies first become apparent?

681 A. Shortly after the meeting I had with him in the office, that was the first time it came to my attention; I don't remember the date of that.

Q. Do you recall that on the date you discharged Mr. Kinch on December 31, 1936, when you met him in your office or just outside the door of your office, you said to him "Mr. Kinch, what do you think of your proposal now?"

A. I may have said that, I don't recall.

Q. Do you recall that shortly after that statement or perhaps the next statement you told him you had decided it was for the interests of the company not to retain him any longer?

A. That is about right.

Q. Do you know what Mr. Kinch's earnings were when he worked for your company?

A. No, sir, I do not.

Q. Are you aware at the present time of some of his activities that you term "prying into the affairs of the company"?

A. I didn't get that.

Mr. Rissman: Will you read the question please.

(The question was read.)

A. At the present time, no.

Q. (By Mr. Rissman.) Are you aware of the fact that what you term "prying into the affairs of the company" was

Mr. Kinch's attempt to obtain information regarding
682 earnings of the company and regarding the benefit to employees under certain government contracts that were being worked upon by the company?

A. Will you have that question read?

Mr. Rissman: Read the question.

(The question was read.)

A. Yes, I would say I was, that was about what I heard. If Mr. Kinch had wanted some authentic information, if he had come to me and asked me I would have given it to him.

Q. Did you ever tell that to Mr. Kinch?

A. I don't know that I did.

Q. Did you ever tell that to any of your employees?

A. Yes, a lot of them.

Q. Have any of your employees ever come to you for information concerning government contracts and what the contract provided should be the rate of pay to employees working on products under that contract?

A. We were paying the rates that the government contracts demanded.

Mr. Rissman: Will you read the question please.

(The question was read.)

The Witness: Not that I recall, not specifically.

Q. (By Mr. Rissman.) Have you at any time discussed with Mr. Kinch or any employees within the last two years, the details of any contracts, other than those employees 683 who of necessity must know the details?

A. I have discussed it with a great many at times.

Q. If Mr. Kinch had come to you for information on the earnings of the company and profits to be derived under certain government contracts, would you not consider that prying into the affairs of the company?

A. Not if he came to me, no.

Q. Was he prying into the affairs of the company if he seeks to obtain that information through unbiased sources, that is, from government agencies?

A. I don't know what that has got to do with the welfare of the people at the plant.

Q. Why would it be prying into the affairs of the company if he got it from an outside source and not be prying into the affairs of the corporation if he got it from you?

A. If we chose to tell him it would be our business.

Q. And if you did not choose to tell him then it would be prying into the affairs of the company?

A. I would say yes.

Q. Does not an employee have the right to obtain public information regarding the earnings and business of the corporation, just as an employee?

Mr. Lamfrom: You need not answer that, Mr. Falk. We will concede that.

Mr. Rissman: I want to know what Mr. Falk thinks.

684 Mr. Lamfrom: Well, we will concede it for The Falk Corporation.

Trial Examiner Batten: Well, I think counsel conceding that is sufficient.

Q. (By Mr. Rissman.) Did you feel that way and with that the decision had been made at the time of the discharge of Mr. Kinch?

A. What is that?

Q. That is, did you feel that was so at the time of the discharge of Mr. Kinch?

A. Then?

Q. Yes.

A. Yes.

Q. Then why was he discharged?

A. Why—

Q. Why was one of the reasons for his discharge the fact that he pried into the affairs of the corporation?

A. Because he was getting information that was not obtained, was not the right information.

Q. Did you know the source of his information?

A. No, I did not.

Q. Do you know what his information was?

A. I heard at various times, yes, something about it.

Q. Do you recall anything now of the information he received that was not the fact?

685 A. No, I don't.

Q. Do you think you would be able to refresh your recollection with reference to that by reviewing some of the records or by discussing it with some of your officers?

A. I might, most of my information came from Mr. Green, the superintendent.

Q. Will you do that for us, Mr. Falk, and when you are advised by Mr. Green or somebody else of the erroneous information Mr. Kinch had, will you please tell us?

A. I will be glad to do it.

Q. Do you know that during the time Mr. Kinch was a member of the Works Council he constantly and repeatedly objected to the main order of business of the Works Council, namely, reports of how much milk there was in the canteen and how many candy bars they had left at the end of the week?

686 Mr. Lamfrom: Just a minute, I object to that question, if your Honor please. It is one of the smooth, tricky propositions that has no merit back of it. I don't think it is a fair question.

Mr. Rissman: If it were a fact and Mr. Falk knows it he can say so.

Trial Examiner Batten: I don't believe that the attitude of Mr. Kinch or the corporation with respect to reports on matters of that kind are material to the issue in this case. However, if counsel desires he may enlighten the Examiner as to that.

Mr. Rissman: I will, this may not be a part of the record.

Mr. Lamfrom: Why not put it in, let's get some of your thoughts.

Mr. Rissman: It is the theory of the Board and it is also the fact that the Works Council was established by The Falk Corporation in 1933, to prevent the organization of The Falk Corporation into legitimate labor unions, and The Falk Corporation prior to 1933 never dealt with labor organizations, but when Section 7(a) of the N. I. R. A. came into effect they saw such a possibility and inaugurated their hand-picked employees and established the Works Council. To prevent the employees from using the Works Council as an effective 687 vehicle for collective bargaining the main business taken up by the Works Council was how many bottles of milk there were in the canteen, whether or not the cuspidors were clean, how many chocolate bars there were and what the price of the chocolate bars should be.

Mr. Lamfrom: Just a minute. This is at least a quasi-court; you haven't the right to go about castigating everybody in the United States with your crazy theories.

Let's get down to business.

o Trial Examiner Batten: Now, just a moment, gentlemen.

Mr. Rissman, granting that what you have said is true, what effect has that on the issues in this case? In other words, that the Works Council did everything except the thing it was supposed to do, if you show the Works Council did nothing in any way carrying on collective bargaining arrangements with The Falk Corporation, and that it was organized at the instigation and suggestion of the corporation, doesn't that show the same thing?

Mr. Rissman: Except I am not concerned now about the effectiveness of the Works Council, but I am trying to show in connection with the discharge of Mr. Kinch, that the moment he raised his voice to object to the ineffectiveness of the Works Council, the moment he raised his voice in the presentation of the plan that he felt was for the advantage and benefit of his fellow workers, the moment he did anything of that nature, he certainly became a disturber, he 688 certainly became a poor employee for the corporation and was discharged.

Trial Examiner Batten: Mr. Rissman, I will sustain the objection to that question, and you may proceed to show what you just stated, that I consider to be material?

Mr. Rissman: All right.

Mr. Lamfrom: Now, I move, if the Examiner please, that the remarks of counsel which indicated his theory, which it

seems the one he has about everything, be expunged from the record as being incompetent and immaterial and self-serving—

Mr. Rissman: If the Examiner please,—

Mr. Lamfrom: Now, just a minute, I haven't finished.

Mr. Rissman: Go ahead and finish.

Mr. Lamfrom: And not conducive to the establishment of justice.

It can do no good to have him stand up here and give his economic theories about the Works Council and all of that sort of thing, when the only thing we are trying here is the question of whether or not The Falk Corporation has been guilty of specified unfair labor practices.

Mr. Rissman: If the Examiner please, I offered to have my remarks off the record and Mr. Lamfrom insisted that they be on the record.

Now, that they don't suit his purpose, and seem to put the company and his case in a bad light, he asks that they 689 be expunged.

Mr. Lamfrom: I move that remark be expunged from the record. That is not lawyer-like.

Trial Examiner Batten: In order to end this situation, the Trial Examiner has ruled that the question is not material, and as far as the remarks of counsel are concerned the Trial Examiner suggested that they be not on the record and was willing to listen, and I think counsel for the respondent suggested that it was just as well they be on the record.

Now, the remarks may be stricken, but they will remain in the record; I mean they will not be expunged from the record. I don't consider them material, but you may proceed.

Q. (By Mr. Rissman.) Mr. Falk, do you know that Mr. Kinch was in constant disagreement with other representatives of the Works Council regarding the matters and business taken up at the Works Council?

A. No, I do not.

Q. Wasn't it ever reported to you that he disfavored the activities of the Works Council, stating that they were not matters of collective bargaining in the interest of the employees?

A. I don't remember that it was.

Q. Had you ever heard that from any other Works Council members?

A. No.

690 Q. Or anybody else in the company?

A. No.

Q. Do you know, Mr. Falk, what the constant and often recurring business of the Works Council was?

A. No, I do not.

Q. Do you recall that the first item of business as reported to you in the meetings of the Works Council from the time of its—from the time shortly after its organization until the time of its demise, was an accounting of the business of the canteen for each month?

A. No, I don't.

Q. Do you know that the business of the Works Council was to take care of the canteen of the company?

A. I thought it was.

Q. Do you know that one of the main orders of business after getting the report of the business of the canteen, was to appoint a committee to investigate the canteen and check up on its inventory for the following week or following month?

A. No, I don't.

Q. Did you ever read the minutes of the Works Council?

A. Once in a great while I did, I never went through them very carefully.

Q. Prior to the establishment of the Works Council was there a canteen in the factory?

691 A. I don't remember.

Q. Is there a canteen there now?

A. Yes.

Q. Who operates it?

A. I think a Christmas Club, so-called.

Q. Does the Independent Union have anything to do with the operation of the canteen?

A. I don't know.

Mr. Rissman: Pardon me, just a minute, Mr. Examiner.

Trial Examiner Batten: We will recess for a few minutes.

(A short recess was taken.)

Trial Examiner Batten: I believe we will proceed, gentlemen.

Q. (By Mr. Rissman) Mr. Falk, can you tell us the location of the powerhouse with reference to the rest of the plant?

A. Well, it is south of the largest group of buildings and a little bit west of what we call No. 3 shop.

Q. Is it a separate building by itself?

A. A separate building.

Q. And employees how many people?

A. 15.

Q. What are the occupations of some of those 15?

A. Firemen, oilers and engineers.

Q. When these firemen, oilers and engineers report for work do they report direct to the powerhouse or punch
692 in at some other place?

A. I don't know where they punch in.

Q. In the opinion of the company could the purposes of the powerhouse employees for collective bargaining best be accomplished together with representation of all the workers at the plant or by separate representation for those employees?

A. I think they can be served as well one way as the other.

Q. If the National Labor Relations Board should find as a result of these proceedings that the workers in the powerhouse are entitled to a bargaining unit of their own composed entirely of powerhouse employees could the company effectively deal with such a bargaining unit?

A. Yes.

Q. Are there any clerical employees in the powerhouse?

A. No.

Q. And the only type of workers there are, are those you have mentioned, firemen, oilers and engineers?

A. That is right.

Q. Are there any other activities in the powerhouse except the necessary equipment and machinery to operate the powerhouse?

A. No, nothing but the maintenance of the machinery, that is all.

Q. Is there a separate maintenance man for the powerhouse?

A. No, sometimes the boys in the plant do their own
693 maintenance and sometimes other fellows from another plant.

Q. So that if there is any maintenance work to be done the powerhouse gets some of their maintenance men from the main building?

A. Sometimes.

Mr. Rissman: No further questions.

Mr. Lamfrom: We will reserve cross examination of Mr.

Falk until we put in our defense, so that will shorten the matter quite materially.

Trial Examiner Batten: Mr. Goldberg.

Cross Examination.

Q. (By Mr. Goldberg) Mr. Falk, you did not check your employment records in order to ascertain whether there were 15 men working in the powerhouse, did you?

A. Yes, I know there are 15 men in the power plant.

Q. Well, that does not seem to agree with the statement that I have that there are 17, including the chief engineer. Have you included the chief engineer?

A. I think perhaps, Mr. Goldberg, you have included two derrick operators in that figure, steam derrick operators.

Q. Are they employed in the power plant?

A. No, they are not.

Q. I see. Now, what is the nature of their work?

A. They are steam derrick operators.

Q. They operate steam-driven machinery, do they not, 694 or power-driven machinery?

A. Steam derricks, yes.

Q. Do you know whether they are affiliated with any labor organization?

A. No.

Q. Did Mr. Kingsland represent that they were members of his union when he conferred with you?

A. He didn't say that; he said the powerhouse, he said he had 17 out of 19, or something like that, as I recall his statement.

Q. Well, to refresh your recollection didn't he tell you that there were 14 out of 17 had signed up with his union?

A. He said 17 out of 19 as I recall it.

Q. Well, you may be mistaken on that. You did not make any notes at the time?

A. I did not make any notes, but that figure registered pretty definitely with me because it was in error with the number of people we had in the power plant, I happened to know that.

Q. That is your best impression?

A. That is my best impression, very definitely.

Q. The men in the powerhouse perform work that is distinctly different from the rest of your employees, isn't that true?

A. I think that is right.

695 Q. And the only two other employees in the entire organization, that is, in your plant, are these two steam-driven derrick operators whose work might be compared with those in the powerhouse, isn't that true?

A. Yes, that is right.

Q. They do a type of work which is similar to the work being performed in the powerhouse, these two men do?

A. Well, yes, one is mobile, and the other is stationary, that is the difference.

Q. Do you happen to know the scale of wages for the men employed in the powerhouse?

A. I cannot recite it to you, Mr. Goldberg.

Q. Is it hourly or weekly pay?

A. Monthly.

Q. Monthly pay?

A. Yes.

Q. You don't know their schedule of hours?

A. Schedule of hours, yes, about 48 hours a week.

Q. 48. Is that a six-day week?

A. Yes, I think so.

Q. Now, on this question of bargaining, isn't it your idea that bargaining can be carried on effectively by either craft units or plant units, depending largely on the type of leadership among the men and also among the unit and among the company—the various companies to be dealt with; 696 isn't that true?

A. That is a little involved question. You are getting in there the distinction between one and the other, with leadership modifying one and the other.

My personal opinion is it does not make much difference one way or the other.

Q. Yes, I am in agreement with you, it really depends on the leadership rather than the unit.

You can effectively bargain with a small group, a craft unit, or with an entire plant unit, depending on whether there is effective leadership at the head of the unit designated, isn't that true?

A. I think that is substantially right.

Q. Now, you have spoken to the men working in the power plant concerning their joining or refraining from joining labor organizations; isn't that true?

A. No, I have spoken to them about labor organizations but not refraining from joining at all.

Q. Well, you have spoken in your office to the various employees at the power plant?

A. That is right.

Q. Concerning unions, have you not?

A. That is right.

Q. And you spoke to these various employees, one at a time in your office; isn't that true?

697 A. Sometimes one at a time and sometimes there were three or four in there.

Q. And that was subsequent to the conversation you had with Mr. Kingsland?

A. That is right.

Q. You called these men in to your office for that purpose?

A. I did.

Q. When did you call the first one of them into the office?

A. I don't remember that?

Q. I beg your pardon?

A. I don't remember that.

Q. Was it the same day that Mr. Kingsland was there?

A. I don't remember now.

Q. With reference to the time he called on you was it the following day or several days later?

A. I don't know.

Q. However, you did call the men after you had spoken to Mr. Kingsland?

A. That is right.

Q. Do you know the first one you called in?

A. No.

Q. You don't know who that was?

A. No.

Q. Did you talk to the supervisor over the men in the powerhouse before you called any men in?

698 A. I may have.

Q. What is his name?

A. Meyer.

Q. What was the nature of the conversation with Mr. Meyer concerning that subject?

A. I don't recall it.

Q. Where did you talk to him concerning the subject?

A. I don't remember.

Q. Do you know when you talked to him?

A. No.

Q. Was it the same day that Mr. Kingsland was there?

A. I don't know.

Q. Well, it must have been concerning the joining or re-joining from joining the union, isn't that true?

A. That discussion with him was about the organization, yes, sir.

Q. What was his opinion, did he express any opinion?

A. I don't know, I don't think he has any particular opinion one way or the other.

Q. Did he tell you that?

A. I don't remember.

Q. Well, what was—don't you have any inkling of the things said by you or him?

A. No.

Q. At that time?

699. A. No.

Q. That was only a few months ago, wasn't it?

A. I guess so.

Q. Had you had many conversations with Mr. Meyer concerning the unionization of the powerhouse?

A. Not so many, no.

Q. Do you recall any of them?

A. No.

Q. Were any conversations had between Mr. Meyer and you concerning the unionization of the power plant prior to the time Mr. Kingsland came to you?

A. Yes, I think there were.

Q. When was the first one?

A. I haven't any idea.

Q. Was it prior to the time that you learned of the fact that your operating engineers were attempting to unionize your powerhouse?

A. I don't know.

Q. When did you first learn of the fact that the operating engineers, Local 311, were organizing your men working at the power plant?

A. The day Mr. Kingsland came into the plant.

Q. You never had any inkling before that date?

A. No.

Q. Even though men signed up as early as February 1937?

700. A. No, I knew nothing about that.

Q. When you called these men in the office did you ask them questions or did you do the talking and have them do the listening?

A. We just talked between ourselves, as I did with my group of three or four men.

Q. Did you ask the same questions with each of them?

A. I talked sometimes to four of them at a time and sometimes one.

Q. You canvassed the entire powerhouse?

A. No.

Q. Were there any men that were not spoken to by you?

A. I don't remember.

Q. What was your plan in calling these men in?

A. All I wanted to find out was whether these men were much intimidated when I talked to them, as I was accused of having intimidated them when I talked with them. I just wanted to find out how many of them I had threatened or coerced or intimidated by asking them to come into the office and talk with me about it.

Q. You called the men in?

A. Yes, I called them in.

Q. In order to find out whether they had been coerced?

A. Yes.

Q. As you had been accused of coercing them?

701 A. Yes, sir.

Q. Who accused you of coercing them?

A. I think you did.

Q. I accused you?

A. Yes.

Q. After we had the conference at Mr. Lamfrom's office you called them in?

A. Yes, sir.

Q. After we had the conference at Mr. Lamfrom's office you then stated you had called certain individuals of the powerhouse into your office and talked to them as to whether they wanted to be represented by the Operating Engineers or not.

A. Right.

Q. Isn't that true?

A. Right.

Q. Let's take back what occurred prior to the time that I spoke to you in Mr. Lamfrom's office.

Now, with that in mind, why did you call the men in between the time that Mr. Kingsland spoke to you at your office and the time I spoke to you in Mr. Lamfrom's office?

A. I don't think I called them in at that time. It was after the time I had met with you in Mr. Lamfrom's office.

Q. Well, you stated to me in the presence of Mr. Lamfrom and in the presence of Mr. Kingsland, did you not, that you had called the men in your office and spoken to them 702 about their joining the Operating Engineers?

A. I don't think I did; I didn't call them in before that time, I called them in after the meeting in Mr. Lamfrom's office, I know.

Q. Why did I accuse you, what was the purpose of that, your idea of that?

A. How would I know?

Q. Well, I made the statement did I not, that by calling the men into your office, these men working in the power-house, and talking to them one at a time about joining or refraining to join the Operating Engineers, that you were coercing the men, and isn't it a fact that you volunteered the statement that you had spoken to these men?

A. That is right.

Q. In your office, isn't that right?

A. Yes, sir, right.

Q. Now again, I ask you what was your purpose in speaking to them at that time, prior to the time that we had the conversation in Mr. Lamfrom's office?

A. I wanted to find out how many wanted to go along with this union.

Q. Did you feel that you had the right to call these men into your office and ask them individually whether they wanted to join the Operating Engineers?

A. I didn't say I asked them individually; I talked 703 to them sometimes individually, and sometimes in groups of two or three, and I figured I had that right.

Q. Did you feel you had the right to call them in individually or in small groups?

A. Yes, sir.

Q. You called in practically everyone of the employees in the power plant and asked them whether they wanted the Operating Engineers, Local 311, to represent them; isn't that true?

A. Yes, that is right.

Q. And pursuant to that understanding of your right you did talk to a goodly number of your employees in the power-house?

A. That is right.

Q. Now, that was after Mr. Kingsland had been to see you, wasn't that true?

A. I think so.

Q. Now, what was the nature of your conversation with these individuals on those occasions?

A. Well, the nature of it was just simply an effort on my part to find out whether these fellows wanted to join the union.

Q. You did not put any question of vote to them, did you?

A. Not that I recall.

Q. Did you tell me and Mr. Kingsland you were going to call the men in?

704 A. I don't think so; maybe I did.

Q. Was the foreman present when you called them in?

A. No.

Q. Well, just exactly how did you go about inquiring whether they wanted the International Union of Operating Engineers, Local 311, to represent them?

A. Well, I told them substantially of the meeting with Mr. Kingsland and what he asked, and I said, "If that is their desire I would just like to know it because I did not want to make any arrangements that some of them didn't agree with."

Q. Did you express your opinion on unionization one way or the other on these occasions?

A. I don't know, I may have.

Q. You may have expressed your opinion?

A. Yes.

Q. Of course your opinion is unfavorable to union organization?

A. That is right.

Q. And it was unfavorable to Local 311?

A. That is right.

Q. Did you make any suggestion to the men?

A. I don't think so.

Q. May you have?

A. I don't know.

Q. And when you say you don't know, is it possible
705 in some instances you may have and in others you may not have?

A. I said I don't remember.

Q. (By Mr. Lamfrom.) Were these conversations you had with the men after the postal cards had been sent out by the union?

A. Some of them were and some of them were before.

Q. (By Mr. Goldberg.) Then you had this conference

at Mr. Lamfrom's office and after that conference you again talked to the men, did you not?

A. I talked to some of them, yes, sir.

Q. Did you call in each and everyone of those whom you had spoken to prior to the time that you had the conference in Mr. Lamfrom's office?

A. No, I don't think so.

Q. Now, these employees in the powerhouse had been working for you for a long period of time, had they not?

A. That is right.

Q. And you knew those men and know they are family men and something about their mode of living, do you not?

A. Yes, I know them pretty well.

Q. You come in contact with them quite often?

A. Well, it is a big shop, once in a while you go a long time and don't see a certain group and then again you may see, if occasion takes me over there for some particular purpose, we have a repair, I might be over there two or three days a week and then not go back in a month.

706 Q. You feel those men think highly of you, do you not?

A. I hope they do.

Q. You also think they would like to please you and do your bidding if they can, isn't that right?

A. I think that is probably right.

Q. And in speaking to them, don't you think that if you let it drop that you were opposed to the Internatinoal Union of Operating Engineers, Local 311, that at least a good number of them might go along with your way of thinking?

A. No.

Q. You don't think so?

A. No.

Q. Why don't you feel that way?

A. Because I think those fellows know their own minds, they know what they want to do.

I can't understand why you called these men into your office and talked to them if they knew their own minds?

A. I did not want to sign any agreement for some of them who did not want to go along with the union. Why should I do that?

Q. If they knew their own minds, did you think it was necessary to let them know, at least some of them, that you were opposed to Local 311?

A. I didn't tell them I was opposed to Local 311.

Q. Well, you indicated you were opposed to labor
707 unions and Local 311 is a labor union?

A. I said "unions."

Q. Now, what was your purpose in calling the men back after our conference at Mr. Lamfrom's office, if you knew these various individuals, and you were able to size them up, why did you call them back in your office then?

A. Because I had only talked to a few and I wanted to talk to a few more.

Q. Did you call back the same ones that you had had in on other occasions?

A. I don't know whether I did, I don't think I did; in fact I didn't talk to all of them anyway.

Q. You are not sure on some of these things?

A. Not exactly, no.

Q. Is there any significance that you can point out, that of the 14 men who had signed applications to the A. F. of L., that all but two have since made requests to withdraw their applications or have discontinued their affiliation?

A. No, I can't say, I don't know what it is.

Q. You don't think your conversations had anything to do with it?

A. No, I don't.

Q. You don't think your letter had anything to do with it?

A. No, I don't.

Mr. Goldberg: May I see that exhibit, please?

708 Trial Examiner Batten: Yes.

Q. (By Mr. Goldberg.) In the past had you sent mail to the men working in the powerhouse on various occasions?

A. Not very often.

Q. As a matter of fact it is not the rule to send communications to your employees in the powerhouse, is it?

A. If I have something to communicate to the powerhouse I usually communicate with the chief engineer.

Q. Sure. However, you saw fit to send a written communication on April 16th, 1937 to the employees of the powerhouse?

A. Yes.

Q. Did you not?

A. That is right.

Q. Did you mail it to each individual's home?

A. No.

Q. How did you send it?

A. Delivered to the men at the powerhouse.

Q. You delivered it to each man in the powerhouse?

A. Yes.

Q. Now, you don't know whether any men in the powerhouse received the postal card or not, stating that Mr. Kingsland had had a satisfactory interview with you, do you?

A. No, I don't.

Q. You did not know that at that time?

A. No.

709 Q. You had not canvassed your employees?

A. No.

Q. The only way you knew that a card had been sent was due to the fact that a card was brought to you one morning by one of the men, isn't that true, and at the present time the only man that you knew who brought a card to you is Mr.—

A. Trebetosky.

Q. Mr. Trebetosky; isn't that true?

A. That is right.

Q. Have you since refreshed your recollection and do you know of any other cards?

A. No.

Q. How come you didn't call the men in the office on that occasion instead of distributing this letter of April the 16th?

A. Just because I chose to write a letter instead of calling them in.

Q. Now, if you were discussing with someone whom you thought very highly of, someone whose bidding you would like to do, and that certain somebody thought of joining a club or fraternal organization, and if you were handed by that certain individual a statement "I am not in favor of blank club," wouldn't you be inclined not to join that club if you still wanted to do his bidding?

Mr. Lamfrom: Of course that comparison there, Mr. 710 Goldberg, is not fair.

He says, "not in favor of a club, blank club or blank union."

State whether or not a union of employees—

Q. (By Mr. Goldberg.) All right, cut out "blank organization," and let's assume that this is a bridge club and insert there "You were in favor of the bridge club," wouldn't you be inclined not to join the bridge club after that if you still wanted to.

Mr. Engelhard: I submit, your Honor, that is not a proper question, what he learned or what his views may be on a matter of that sort. That does not prove the issue in this case.

Trial Examiner Batten: Well, the objection to the question to my mind is assuming that he wants to do the bidding of another.

Now, there is no evidence here that the employees wanted to do the bidding of the employer.

Mr. Goldberg: Well, if I may call your attention to the answers that have just been given, Mr. Examiner, I think the contrary is the case. The witness stated when I asked him whether the employees think highly of him, whether they would like to do his bidding, he stated all along the line, yes. I think you will find that in the record.

Trial Examiner Batten: I think he said that he hoped 711 the employees would think highly of him.

Mr. Goldberg: Yes.

Trial Examiner Batten: Now, I don't recall any such conversation—any such questions asked this witness, do the employees want to do your bidding.

Mr. Goldberg: Well, I think it is in there, but it is a hypothetical question and perhaps won't help us.

I agree the question be withdrawn, but I don't agree he didn't say it. That is something you can check the record on later, on the bidding.

Trial Examiner Batten: Don't put this in the record.

(Discussion off the record.)

Trial Examiner Batten: All right, proceed.

Q. (By Mr. Goldberg.) Did you call the employees in pursuant to No. 3 in this letter?

Mr. Engelhard: I didn't hear that question.

Q. (By Mr. Goldberg.) Which reads:

"We are ready at all times to meet with you as a group or individually to discuss your problems."

Was it your thought that you called these men in and discussed their problems?

A. No, I don't think I had any thought with reference to that paragraph at that particular moment.

Q. You were just here calling the men in to see whether my statement to you that you were coercing the men in 712 calling them in to your office was well-founded or not?

A. Yes, I wanted to recite to them the whole situation so that they would know what the whole situation was.

I recited the whole situation from my meeting with Mr. Kingsland in my office and the meeting in Mr. Lamfrom's office with you and Mr. Kingsland present, as I recall it, I recited the whole episode.

Q. What did you recite to them?

A. Just the questions of our meeting.

Q. Yes, tell us what that was.

A. My meeting with Mr. Kingsland and my discussion with him and my meeting with you.

Q. Did you make this statement to the men on these occasions when you called them in to your office:

"You know you don't have to join the union, you can depend upon me."

A. No, I don't recall such a statement.

Q. Well, something to that effect?

A. No.

Q. Something to the effect that "I have always treated you right and you know I will always continue to treat you right"?

A. No, not that I know of.

Q. Or the Falk Corporation is interested in your welfare, the welfare of its employees and "we will take care of you men"?

713 A. No.

Q. Did you say anything about "anything you can get by a labor organization you can get without paying dues to this organizer. The Falk Corporation is interested in you"?

A. I may have.

Q. Was anything said by either you or the men on the occasions of these meetings concerning the Independent Union in existence at the plant?

A. Not that I recall.

Q. Did you state to them "That anything that you want done through the labor organization or through the union, that can be done as well and better through the Independent Union"?

A. Not that I recall.

Q. You do recall however, something being said about the payment of dues to the union?

A. I don't recall it definitely; I say, I may have said it, I don't recall.

Q. Have you studied the wage scale of the operating engineers in the city of Milwaukee outside of your plant and compared it with the wages paid to the men in the powerhouse by your company?

A. We check wages every once in a while.

Q. What do you claim, are you higher or lower?

A. I think our scale is about as high as any.

Q. Well, comparing the union wage scale are you as
714 high as the union wage scale is?

A. I don't know what the union wage scale is.

Q. Do you pay one dollar to the men in the powerhouse?

A. We don't pay by the hour, we pay by the month.

Q. Well, you pay \$48 a week?

A. Yes, I think we do.

Q. To all of the men in the powerhouse?

A. That I am not sure.

Q. The superintendent gets more?

A. Surely.

Q. Can you get your wage scale and have it for us here?

A. Yes, sir.

Q. Thank you. What did these men tell you when you called them in the office as to whether they were coerced on former occasions when you called them to the office?

A. I found—I haven't found anyone that said they were scared or coerced, threatened or anything else. They took that conversation just as we have always talked to them.

Q. Did any of them tell you they had since withdrawn from the union?

A. Some of them sent me a copy of a letter some days after they had sent it in, I guess, I guess four or five of them.

Q. Now, Mr. Falk, when you called these men in the office did you inquire whether they had joined the Operating Engineers or signed an application for membership?

715 A. No.

Q. You did not ask them that?

A. No.

Q. What did you ask them concerning whether they wanted the Operating Engineers to represent them?

A. That is right, Mr. Kingsland asked me to be their bargaining agent and I thought before acting as their agent for those fellows, I would like to know what they were thinking about.

Q. What they were what?

A. What they were thinking about.

Q. You called each one of the individuals to find out what they were thinking about?

A. No.

Q. Well, that is not quite clear to me. You called them in to ask whether they wanted Mr. Kingsland to represent them or not?

Mr. Engelhard. He didn't testify to that. He said Mr. Kingsland wanted Mr. Falk to be their bargaining agent.

Mr. Goldberg: Mr. Kingsland wanted Mr. Falk to be the bargaining agent?

Mr. Engelhard: Yes, sign a contract with the organization.

Mr. Goldberg: I don't think you mean just what you say.

716 Mr. Engelhard: Have the question and answer read back then.

Mr. Goldberg: You just stated that Mr. Kingsland wanted Mr. Falk—

Mr. Engelhard: I said Mr. Falk testified that Mr. Kingsland wanted Mr. Falk to be the bargaining agent for these employees; in other words, enter into a contract with Mr. Kingsland without compelling the men, and the postal card indicated Mr. Falk had already agreed to everything except one item, the hours.

Trial Examiner Batten: Will the reporter go back and read the previous questions and answers.

(The record was read.)

Trial Examiner Batten: The question is, did you call the men to ask them whether they wanted Mr. Kingsland to represent them, is that right?

The Witness: That is right.

Q. (By Mr. Goldberg) And in the course of the conversation did any of them tell you that they had signed applications for membership in the Operating Engineers Union?

A. I don't remember that.

Q. Do you know of a single one who told you that they had signed an application for membership?

A. Yes, I remember Ottman very well, because I had quite a discussion with Ottman about it, and he was a member
717 he said.

Q. What was the discussion you had with him, what was the conversation?

A. Oh, I don't remember, I talked with him for probably 15 or 20 minutes.

Q. Well, there was a lot said in 15 or 20 minutes, tell us something.

A. I don't remember it.

Q. Don't you remember a single thing that was said concerning labor unions?

A. No.

Q. (By Trial Examiner Batten) Mr. Falk, do you remember the general tenor of the conversation?

A. Yes, in a very general way.

Q. Well, tell us as you remember it, what the subject of discussion was?

A. Well, I, in talking with Ottman, like I talked with most other fellows, I tried to find out whether it was his desire to be a member of the A. F. of L. and have these fellows represent him.

He indicated that he was a member of the union, that his father had been a member of the union for a great many years.

As I recall the conversation, I told him, "That is all right, if that is what your choice is, that is fine, you have your own choice."

We discussed things along that line for about ten or fifteen minutes. That is about the gist of the conversation.

Q. Did you indicate to that man that you were opposed to it, to the union?

A. No, I don't think I did.

Q. You did, however, to some of the other fellows?

A. I said I may have.

Q. Did you realize that there was a man that had made up his mind and there was no changing him?

A. Not at all.

Q. Did you talk to McCarthy?

A. Yes, I think I did.

Q. Do you recall when you talked to McCarthy?

A. Well, I talked to him one morning because he happens to be on the night shift and he goes out in the morning. I met him in the office in the morning. He comes over in my office very often.

Q. What was the nature of the conversation with McCarthy?

A. I don't remember that.

Q. Did you let McCarthy know that you were not favorable toward labor unions?

A. I don't remember it.

Q. Did McCarthy in the course of the conversation let you know that he had signed an application for membership in this union?

A. I don't remember he did.

Q. Did you talk to William Getrig?

A. Sebrig—

Q. Severight, yes.

A. I don't remember that, I may have.

Q. Did you talk to M. Nessman?

A. I don't know.

Q. You may have and may not have?

A. That is right.

Q. Did you talk to Charles P. Chase?

A. Yes, sir.

Q. Did you mention to Charles Chase that you were not favorable towards unions?

A. I don't know.

Q. Did he in the course of the conversation tell you that he had signed an application for membership?

A. He did.

Q. In the International Union of Operating Engineers?

A. He did.

Q. How long did you talk to him?

A. Maybe 5 minutes or so.

Q. Did he tell you the reason why he had joined?

A. Yes, he gave them one dollar to get rid of them.

Q. If I told you he paid five dollars and not one dollar, would that refresh your recollection? Did he tell you that it was five dollars he gave them?

A. As I recall it he told me one dollar.

Q. Did he tell you when he had signed up?

A. No.

Trial Examiner Batten: Mr. Goldberg, I do not want to restrict this examination in any way. However, I don't see where any of these questions are material, to this witness as to whether or not he told him he was a member of the union or when he signed or how much he paid.

However, I do think the material thing in this case from this witness is just what conversation took place between the witness and Mr. Chase at this meeting, and not whether he knows all of these facts. We are not as much interested in what he does not know as in what he does know, and it seems to me in each of these instances if you will ask the witness to relate what was said by Mr. Chase and what was said by himself at this meeting we will get all of the facts with respect to the meeting.

Mr. Goldberg: Yes, that is a good suggestion. I will follow that.

Q. (By Mr. Goldberg.) Now, do you remember what was said by either Charles Chase or yourself at this meeting?

A. No, I cannot remember the entire conversation. I think I can give you the substance of the conversation 721 that I had with most of the men, if that will serve your purpose.

Q. Well, do it if you will, please.

A. I simply in talking with these men tried to find out whether they desired to affiliate with the A. F. of L. or not. That was the purpose of my conversation with them.

I figured that if all the fellows in the powerhouse wanted to belong to the A. F. of L., as far as I was concerned, it was perfectly all right, and substantially I told them all that.

I said, "What I want to know is, do you fellows want me to sign up? Are you ready, all of you, to go along with this and handle this? I would like to find out how many of you are ready and how many are not."

That was substantially my conversation with all the men. The details of the conversation I don't remember.

Q. Did you know of any other individual other than these two you have mentioned who, in the course of these conversations, told you they had signed applications for the Operating Engineers?

A. No.

Q. Those are the only two you could think of?

A. That is all I can remember now.

Q. I will ask you whether you spoke to any of these men that I am going to call off, in addition to the ones you have already told us:

722 Jensen?

A. I don't remember that.

Q. William Brant?

A. I think I talked to William Brant.

Q. M. Trebetosky.

A. Yes, I talked to him.

Q. G. A. Atcherberg, George is the first name.

A. I don't know whether I talked with him.

Q. John Yankovich.

A. Yes, I talked with him.

Q. Lawrence Frank.

A. I think I talked to Frank.

Q. Carl Hergensade.

A. Hergenrider.

Q. Right.

A. I don't remember that.

Q. M. P. Garrity.

A. Yes, I think I talked to Garrity.

Q. Did Garrity tell you that he was an old union man?

A. I don't remember that.

Q. Did you talk to Schader?

A. Yes.

Q. Now, after you have heard these names I have just called off to you does that refresh your recollection as to any of them telling you whether they had joined the 723 Operating Engineers Union?

A. Except Schader, he always told us he belonged to the union; I knew he belonged to the union, he belonged to the union when he worked for Allis Chalmers.

Q. As a matter of fact he joined the union before he worked for you?

A. That is right.

Q. Now, did you know that some of these men asked that their applications be withdrawn?

A. They sent me a copy of a letter.

Q. They sent you copies?

A. Yes.

Q. Do you know who got out those letters?

A. I haven't any idea.

Q. They were not gotten out at your office?

A. I don't know anything about them.

Q. I will show you this letter and ask you whether the typing on it and that type of paper is used in your office?

A. I can't answer that, I am not an expert at that.

Mr. Clark: Let me see it. Maybe I can explain it.

I know some of these letters were written in our office and sent in our office. I don't know whether that is one or not.

Trial Examiner Batten: I presume the men themselves would know.

724 Mr. Goldberg: That is what we will do. I thought maybe we could get it from this witness, but I will subpoena in some of these people.

Mr. Engelhard: Don't subpoena them all at one time.

Mr. Goldberg: No, I think we will cooperate on that; we will let you know who we want.

Mr. Engelhard: Sure.

Mr. Goldberg: Mark this—

Trial Examiner Batten: What is that?

Mr. Rissman: Board's Exhibit 24 is the minutes of the Works Council.

Trial Examiner Batten: Yes, and the amended petition was marked Union's Exhibit 1.

Mr. Rissman: Yes, Local 311 Exhibit 1.

Mr. Goldberg: Local 311 Exhibit 1, and I will ask to have this marked as Local 311 Exhibit 2.

(Whereupon, the document above referred to, was marked Local 311 Exhibit No. 2 for identification.)

Mr. Engelhard: What was Local Exhibit 1?

Mr. Goldberg: The amended petition.

Trial Examiner Batten: That was the amended petition.

Mr. Engelhard: Oh, that was the amended petition.

Mr. Goldberg: Yes.

Mr. Rissman: Exhibit 2 is something else.

725 Q. (By Mr. Goldberg.) Mr. Falk, I show you Local 311 Exhibit No. 2 marked for identification, which is an application card for membership in the Independent Union. You have seen it before, have you not?

A. I don't know that I have.

Q. Do you know whether any of these were passed around on the premises of the company on company time?

A. I don't know.

Q. Has it been called to your attention if it had been?

A. They may have; I assume that probably they are.

Q. In these conversations with the individuals did you stress the fact that they can join a labor union or not, as they saw fit, under the Wagner Act?

A. I think I did, yes.

Q. Rather forcibly?

A. Well, I don't know how forcibly it impressed them. I tried to tell the man what his rights are and I tried to be fair about it.

Q. Did you talk to your lawyer before talking to these men as to a correct interpretation of the rights of the men or did you take it upon yourself?

A. No, I took it upon myself.

Q. In other words, when you make the statement that you advised them of their rights you advised them of their rights as you interpreted their rights to be?

726 A. That is right.

Q. Right?

A. That is right.

Mr. Goldberg: Mark this Local 311 Exhibit 3, please.
(Whereupon, the document above referred to was marked Local 311 Exhibit No. 3 for identification.)

Q. (By Mr. Goldberg.) I show you Local 311 Exhibit No. 3 marked for identification and ask you if you know what that is?

(Handing document to witness.)

A. Well, I have seen it before.

Q. The heading is some questions and answers concerning the Wagner Act, is that true?

A. That is right.

Q. Did you have one of those on your bulletin board at the plant?

A. I think we did.

Q. Who furnished you with it?

A. Either the Metal Trades Association or National Manufacturers Association, I am not sure which.

Q. Did some of the men come and ask questions concerning the meaning of some of the answers or for further clarification as to answers on this questions and answers?

A. Not that I recall.

727 Mr. Rissman: Is there any date on there, Mr. Goldberg?

Mr. Goldberg: No, no date.

Q. (By Mr. Rissman.) Do you recall when it was posted, Mr. Falk?

A. I don't.

Mr. Engelhard: I can give you the date, subject to verification, I find it was on the 18th or 24th of June.

Mr. Goldberg: 1937?

Mr. Engelhard: 1937, the 18th or 24th of June.

Mr. Rissman: Was it after the Supreme Court decision upholding this Act?

Mr. Engelhard: Yes.

Mr. Goldberg: I ask that that be admitted as Local 311 Exhibit No. 3.

Q. (By Mr. Goldberg.) You don't know whether this is the application, and you had not seen it before?

A. I don't recall having seen it, I may have seen it, I will say.

Trial Examiner Batten: If there is no objection Local 311 Exhibit No. 3 will be received.

(Whereupon, the document above referred to, marked Local 311 EXHIBIT NO. 3 was received in evidence.)

Mr. Engelhard: What is 2?

Mr. Goldberg: This is questions and answers to the 728 Wagner Act.

Mr. Engelhard: That was posted on June 18th.

Q. (By Mr. Goldberg:) Now, this Exhibit No. 19, that is, Board's Exhibit No. 19 is the card sent out by Mr. P. A. Santner.

A. That is right.

Q. And in that there is nothing said as to whether the Falk Corporation is in favor of labor unions or against labor unions, is there?

A. It says very distinctly:

"And the outcome of his visit was very favorable. Only the hours that you men wish to work remains to be settled."

That is a misstatement.

Q. The question is, is there anything in there that says The Falk Corporation is favorable or unfavorable to labor unions?

A. It does not say so, but the inference is.

Q. Don't you think the first paragraph of this letter of April 16th, 1937, which is Board's Exhibit No. 18 is an adequate answer, if the fact is as you state it to be, the contention of Mr. Santner, without going in there and stating, "We are not in favor of the union"?

Mr. Engelhard: I submit, your Honor, the document speaks for itself and the Examiner is the person to interpret that.

729 Trial Examiner Batten: Of course the exhibits answer for themselves. There is one other matter, however, in connection with this transaction that the Examiner would like to have some additional light on and that is, if you will, have the witness repeat the conversation that took place at the conference between yourself and Mr. Kingsland. I don't recall that is in the record.

Mr. Engelhard: There is no evidence of that.

Trial Examiner Batten: The conversation, just what he said, what was discussed, and I think if that is in the record, I believe the Trial Examiner can take that conversation as testified by the witness and later by Mr. Kingsland, take the postal card and take the letter and I believe the Trial Examiner will be in a position to draw his own conclusions as to these matters.

Mr. Rissman: Some of their conversation is in, but this might be a good place to get in more of it.

Trial Examiner Batten: Well, there may have been some, but I don't recall distinctly just exactly what was discussed at that conference.

Q. (By Mr. Goldberg.) You just heard the comments of the Examiner. Will you please tell us, having in mind what the Examiner would like to have for the record so that he can study it and be able to piece this thing together, tell us what was said by you and Mr. Kingsland in your office.

730 A. I think this is precisely what was said; Mr. Kingsland came in the office unannounced—had not telephoned me and made an appointment, but I saw him, he came to my office.

We talked for a few minutes, and as I recall the conversation, he asked me whether I would recognize him as the bargaining agent for the men in the powerhouse.

I told him that I thought that was a rather sudden request, and I did not think I was ready to answer that at this time without first having a little talk with some of the boys out there, to find out how they felt about it.

I asked him how many men he had and he said he had 17 out of 19 as I recall.

I asked him if he would furnish me the list of names and he said he hadn't his list with him.

I said, "All right, suppose then that you get your list and some time a little later in the week or ten days from now call me up and we will have another meeting."

That was substantially the conversation as I recall, that I had in my office with Mr. Kingsland.

Q. (By Trial Examiner Batten.) Now, at that conference was there any discussion or statement by Mr. Kingsland about hours and wages?

A. Yes, I believe there was.

I told Mr. Kingsland, as I recall it now, that we had been paying our powerhouse employees on a monthly basis since 1927, that we had given them vacations with pay, that we had paid the men when they were off sick.

731 Then I think, if I recall correctly, Mr. Kingsland told me what their scale was—what it is now I don't remember, I think around one dollar an hour and 48 hours or 40 hours a week.

That I think was the conversation.

Q. Do you recall any conversation, Mr. Falk, at that time with respect to hours?

A. Well, I think I told Mr. Kingsland that we were working on a 48 hour week. I don't recall whether I said to him about 40 hours was a week's work or not. I think perhaps I did.

Q. Was there any discussion at that time about any other working conditions in the powerhouse?

A. Not that I recall, no.

Q. (By Mr. Lamfrom.) Was there any discussion about The Falk Corporation signing an agreement covering hours, wages and working conditions with this union?

A. Well, no, Mr. Kingsland asked to be recognized as the bargaining agent. I don't recall that at that time he asked for anything like having a signature or anything.

Q. Did he present to you any form of contract which he asked you to consider?

A. I don't recall that.

Q. Did you say anything to Mr. Kingsland to the effect that you would consider for The Falk Corporation the entering into of a contract covering hours, wages and working conditions with this union?

A. No, I think as I recall the conversation I told Mr. Kingsland I would want to talk to the boys about it before I did anything.

Q. Did Mr. Kingsland ask you to enter into a contract with the union?

A. I don't think he did.

Mr. Goldberg: That will be all the questions I have, Mr. Examiner.

Mr. Rissman: I have no questions.

Mr. Clark: I have none at this time.

Trial Examiner Batten: Is that all, Mr. Goldberg?

Mr. Goldberg: That is all.

Trial Examiner Batten: I have a question.

Mr. Engelhard: I just want to make the statement that we reserve our cross examination.

Q. (By Trial Examiner Batten.) Mr. Falk, during the time you had the Works Council system in 1933 and for a while thereafter, did the men who were on the Council have meetings at regular intervals? I mean did they have a certain time to hold their meetings once a week or monthly?

A. I think they did, yes, sir.

733 Q. Well now, were some of those meetings held during working hours?

A. Yes, they were.

Q. Were any of those representatives docked for the time that they spent in these conferences representing the men?

A. No, not in the Works Council.

Q. Not in the Works Council?

A. No, sir.

Q. Now, was the operations of Mr. Kinch and his solicitation of employees to sign a petition; did that ever occur during his working hours, if you know?

A. I don't know.

Q. Who would know that, Mr. Green and his foremen?

A. I think Mr. Green and some of the foremen would know that.

Q. When Mr. Green and the foremen represented to you about Mr. Kinch's activities did they tell you of any specific instances where Mr. Kinch had interfered with production?

A. Mr. Batten, when a man is operating a large boring bar, for example, that he has got a piece of work on it that is worth about ten to fifteen thousand dollars and his attention is distracted from his work, if he is boring one that takes a couple of thousandths or one ten-thousands of an inch, he may scrap a very expensive piece of work, and that interferes materially with production.

734 Q. Yes, I understand that, but what I am getting at is, did either Mr. Green or the foremen give any specific instance, mentioning the workmen and machine, work that had been spoiled as a result of Mr. Kinch's activities?

A. They told me a number of instances where he interfered with the men.

Q. Yes, but did they indicate to you that the interference was of such a nature that it resulted in spoiling work, or the necessity of shutting down his machine? In other words, did they go into that matter that specifically with you?

A. No.

Q. So that Mr. Green or his foremen would be able to fully describe the interference that they reported to you?

A. I should say so, yes, sir.

Trial Examiner Batten: I think that is all.

Redirect Examination.

Q. (By Mr. Rissman.) Mr. Falk, directing your attention to the meetings of employees starting on April 12th and lasting for three or four days, when they were forming this Independent Union, do you recall that the company paid the employees for the time during which they were in attendance at those meetings?

A. No, I don't.

Q. Don't you know that they were paid and that subsequently that pay was deducted, and the reason given for 735 the deduction was that the company had been advised it was against the law to pay the employees for such consultation and conference?

A. I don't know that.

Q. Do you know anything at all with reference to whether or not they received any money for attending meetings at which they organized the independent union?

A. No.

Trial Examiner Batten: You mean received money from the employer.

Q. (By Mr. Rissman.) Received their regular hourly pay while they were absent from their work attending these meetings?

A. I don't know that.

Mr. Rissman: That is all.

Mr. Engelhard: That is all.

Trial Examiner Batten: That is all, Mr. Falk.

Mr. Rissman: If the Examiner please, I think at this time we should have some clarification as to what is meant by reservation of cross examination.

To my mind counsel may waive cross examination and then later examine the witness as his witness, or he examines him now.

I wonder just what is meant by the reservation of cross examination.

736 Trial Examiner Batten: Well, I will ask counsel, having heard your statement, to indicate to the Trial Examiner what he means by his statement and then perhaps I can tell you.

Mr. Lamfrom: I had in mind that it is a short cut here to get the evidence in, if we at the same time we examine our witnesses in our case, that we cross examine such wit-

nesses as we would otherwise cross examine, who are really called from our side of the case.

Trial Examiner Batten: In other words that has reference to any such witness as might technically be termed respondent's witnesses.

Mr. Lamfrom: Our witnesses.

Trial Examiner Batten: Respondent's witnesses.

Mr. Lamfrom: Yes.

Trial Examiner Batten: Is there any objection, Mr. Rissman, to such a procedure?

Mr. Rissman: I am still unaware of the effect of the reservation of cross examination. The witness is either cross examined or is not, and any examination counsel cares to make later, he makes him a defense witness.

Trial Examiner Batten: I don't presume that there would be any particular difference of opinion as to the technical point as to whether cross examination is being waived at this time, and then when the witness is called in behalf of the 737 respondent, the respondent counsel is permitted at that time to inquire into any and all matters which he cares to go into.

Mr. Lamfrom: The only advantage we will get from technical cross examination would be the right to ask the witness leading questions, and that is not present in this kind of a hearing. In fact the law is a liberal law under the usual rules of evidence in courts of law and equity not present here.

Mr. Rissman: They are present but not controlling.

Mr. Lamfrom: How?

Mr. Rissman: They are present but not controlling.

Trial Examiner Batten: As far as the Trial Examiner is concerned I have never attempted to make any distinction such as that in the examination of a witness. After all the thing we are concerned about are the facts.

Mr. Lamfrom: That is it.

Trial Examiner Batten: Mr. Rissman, is there any objection?

Mr. Rissman: Frankly, because I don't know the points to be made by the reservation of cross examination, I will object to such reservation. If counsel wishes—if the only point counsel wishes to protect is the right to ask leading questions, I have no objection.

Mr. Engelhard: That is about all we could expect.

Mr. Lamfrom: We expect to put in our case, of course, 738 and in putting in our case we will undoubtedly rebut certain testimony that has been elicited by my friend on the other side in the examination of these witnesses, if we feel it is necessary to have it rebutted.

Trial Examiner Batten: I see nothing prejudicial in that to any of the parties to the proceeding.

(Witness excused.)

Mr. Rissman: Mr. Green, please.

HARRY GREEN, a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination.

Q. (By Mr. Rissman.) Will you state your name, please.

A. Harry Green.

Q. Where are you employed, Mr. Green?

A. The Falk Corporation.

Q. How long have you been employed by The Falk Corporation?

A. 26 years.

Q. What is your present occupation?

A. Superintendent of machine shop.

Q. How long have you been superintendent of the machine shop?

A. About 21 years.

Q. Prior to that what position did you have?

739 A. I was foreman in the helical gear department.

Q. As superintendent of the machine shop you have the right to hire and discharge employees working in that department?

A. Yes.

Q. And you also pass upon the conduct of employees in the department?

A. Yes.

Q. And you pass upon the nature and quality of their work, do you?

A. Well, that is up to the inspectors, the inspectors do that.

Q. Well, if the inspectors report to you that a particular

employee is deficient in his manner of work, why, you take it up with the employee?

A. Yes, sir.

Q. And take such steps as you feel necessary to correct the deficiency?

A. Yes, sir.

Q. In other words, you have the general duties and powers of a superintendent who is in absolute charge of his employees, subject only to the will or control of Mr. Falk and who else?

A. Mr. Falk, that is all.

Mr. Lamfrom: Harold Falk.

Mr. Rissman: Mr. Harold Falk, the man who just testified?

The Witness: Yes.

Q. (By Mr. Rissman.) And you consult with Mr. Falk on questions of policy regarding employees working in the machine shop?

A. Yes, sir.

Q. You consult with your foremen on those matters, too?

A. Yes, sir.

Q. How many foremen do you have, Mr. Green?

A. About 20. I could not say exactly, but it must be about 20.

Q. That includes the day and night shifts?

A. Yes, sir.

Q. What hours of the 24 hour day are you at the plant, Mr. Green?

A. I am there from seven-thirty to four-thirty or five o'clock each day.

Q. Do you ever appear there in the evening?

A. Occasionally, yes, probably once a week or something like that.

Q. Just to check up—

Mr. Lamfrom: When you shake your head it does not get into the record: When he said "Just to check up" you shook your head, you meant yes?

The Witness: Yes.

741 Trial Examiner Batten: I might tell you, Mr. Green, you will have to answer up so the reporter can hear what you say.

The Witness: All right.

Q. (By Mr. Rissman.) And in a general way and in spe-

cific instances you carry out the policies of the corporation as announced by Mr. Falk?

A. Yes, sir.

Q. With reference to your employees?

A. Yes, sir.

Q. Are you consulted in relation to matters of policy that are established by the company?

Mr. Lamfrom: With respect to employment relations?

Q. (By Mr. Rissman.) Employment relations, we are talking about.

A. Yes, Mr. Falk will consult with me sometimes on workmen and things like that.

Q. Do you know Anton Kinch?

A. Yes.

Q. How long have you known Mr. Kinch?

A. Seven years.

Q. You knew him all the time he worked under you at the plant?

A. Yes, sir.

Q. What did you know about the quality and nature of Mr. Kinch's work?

742 A. Mr. Kinch had no experience when he came to our plant. He was taken in and put on a bench and broken in, to take care of the work.

Q. You developed him into a very efficient worker?

A. Well, he was fair, a fair workman in that line of work that he was doing.

Q. Is it not true that Mr. Kinch worked steadily throughout the depression when other people were not,—I mean, were being laid off?

A. He had his share, like the rest of the men.

Q. Is it true he had a little more than the other men?

A. No, I would not say so.

Q. At any rate he was not any worse than the other men?

A. No.

Q. What have you to say about Mr. Kinch's conduct as an employee before October, 1936?

Mr. Lamfrom: Now, do you refer to the conduct of Mr. Kinch as an employee with respect to efficiency in work or conduct with reference to how he acted among his fellow employees, or conduct otherwise?

Mr. Rissman: Mr. Green can inform us.

Mr. Lamfrom: Well, I think counsel should make it clear.

Q. (By Mr. Rissman.) Do you know what is meant by the conduct of an employee, Mr. Green?

743 A. Yes, I know what you mean.

Q. Will you explain about Mr. Kinch's conduct prior to October, 1936?

A. Well, Mr. Kinch wasn't really any better than any other man; Mr. Kinch would spoil work and the foreman would complain to him. He was just the ordinary run of workman.

His conduct as respects his conduct was all right, except, as I say, he would spoil work occasionally like any other man.

Q. But the occasions upon which he spoiled work were not so numerous as to result in his discharge?

A. No.

Mr. Lamfrom: There is no claim made here that he was discharged for spoiling work, why go into that? There is no issue on that. The company does not claim he was discharged for spoiling work.

Trial Examiner Batten: Well, apparently his work was satisfactory up to this time; and Mr. Green says there was no complaint against his work. However, I see no objection to his answering that question. There may be a question as to how material it may be.

Q. (By Mr. Rissman.) Mr. Green, will you tell us now about Mr. Kinch's conduct in the plant with reference to his relations with other employees before October, 1936?

A. You mean before he got on the Works Council or 744 after he got on the Works Council?

Q. After he got on the Works Council and before he had anything to do with that reclassification proposal.

A. Well, he was just ordinary, there wasn't any complaint so far as I know.

Q. Now, tell us how it was before he got on the Works Council?

A. There was no complaint then.

Q. When did you first have occasion to complain about Mr. Kinch's conduct in the shop?

A. After he got on the Works Council, the foremen complained.

Q. What did they complain about after he got on the Works Council?

A. About him going around the shop in working hours and talking to the men.

Q. What was he talking to the men about?

A. Oh, various plans that Mr. Kinch had of his own.

Q. Plans with reference to what?

A. Out around the Works Council and the way the shop should be run.

Q. What were some of his objections, if you know, to the way in which the Works Council was being run?

A. Well, he had so many objections until I couldn't exactly explain every one, but one thing he complained about was 745, the canteen business taking so much time.

Q. Tell us something more about what he complained about with reference to the canteen?

A. Well, he was one of the biggest objectors to the canteen himself, that they didn't have clean milk, clean milk bottles. That was one of the things he brought up himself, and that sort of stuff.

Q. He objected to the business of the canteen taking up too much of the Works Council meeting?

A. Only once to my recollection.

Q. What were some of the other matters in your mind that made Mr. Kinch a poor employee after becoming a member of the Works Council?

A. He seemed to be bothered more about the Works Council business than his own work.

Q. What were his duties, if you can tell us, as a representative of the Works Council?

A. I don't just understand that.

Q. What are the duties of a representative of the Works Council?

A. To represent his department that he was in, for the men that he was representing.

Q. And in his representing his men was it necessary for him to consult with his men regarding problems that might arise?

746 A. Not during work hours.

Q. Was it necessary at any time?

A. At noontime he could, or if these men came to him then.

Q. What were some of the other things he did after he joined the Works Council that made him a poor employee?

A. Well, for one thing, the petition that he circulated.

Q. When was the first time you received any complaints from the foremen about Mr. Kinch's conduct?

A. Oh, about three months before his discharge.

Q. What did you do when you received that complaint?

A. The foreman warned him.

Q. What foreman?

A. It was, I think, two foremen, one by the name of Duechras and Henderson.

Q. Who was the one that complained?

A. Both of them complained to me.

Q. Which one warned Mr. Kinch?

A. They both warned Mr. Kinch at different times.

Q. Who was the first one?

A. Well, I couldn't answer that.

Q. What was the specific complaint about three months before he was discharged?

A. Going around and talking to the men and not looking after his work.

Q. Was that the time he was passing around the petition?

747 A. No, the petition was a little later, I think.

Q. Did you ever hear of any things he was talking about to the men when he went around to them?

A. I didn't personally, no. I only know from hearsay, what the men said.

Q. From hearsay what was it?

A. Well, for one thing he wanted—he had some different ideas of what he wanted to do. Some of the men, he wanted some of the men in the higher brackets to have their wages lowered and give it to the lower men.

Q. In other words, he proposed a reclassification of jobs and rates?

A. Well, that was before he got his reclassification set out.

Q. Yes, but I think you referred to—

A. Yes, sir.

Q. —a readjustment of the scale?

A. Yes, sir.

Q. And there were some other things you heard about.

A. Well, there were some other things that—he told some of the men how much the different executives of the firm, how much they were making a year, they ought to split it up, and things like that.

Q. When he told some of the men who were—when he told some of the men how much the executives for the firm
748 were making a year did he misstate the earnings of the executives?

A. I have no knowledge of that at all, I couldn't tell you.

Q. What else did he tell the men that you heard about?

A. Well, I can't remember specifically, a lot more outside

things that he wants to get up when he wanted to classify all the men.

Q. You say he did these things during working hours?

A. Yes.

Q. His working hours?

A. Yes.

Q. Did you ever see him doing them during his working hours?

A. Just once.

Q. When was that?

A. I couldn't give the date.

Q. Approximately?

A. That is impossible.

Q. Was it three months before he was discharged?

A. Yes, less than three months before he was discharged.

Q. Did you notice him working on his machine?

A. He didn't work on a machine.

Q. What kind of work did he do?

A. He was an assembly man, worked on the bench.

Q. Did he have a bench at the time?

A. Yes.

Q. And he left it?

749 A. He wasn't working at it.

Q. Was he working on piecework or time work?

A. Time work.

Q. How long did he leave that job when you saw him?

A. Oh, possibly 15 minutes.

Q. What was he doing?

A. He was talking to another man.

Q. What did you tell him?

A. I went to the foreman.

Q. It isn't your practice to tell the men directly, you tell the foremen?

A. I go to the foremen.

Q. What did you tell the foreman?

A. I told the foreman to keep the man on the job and not let him waste his time.

Q. Do you know what Mr. Kinch was talking to this other man about then?

A. No.

Q. Who was the other man?

A. Duechras was the foreman.

Q. No, who was the man Mr. Kinch was talking to when you saw him?

A. That I couldn't say offhand.

Q. What kind of work did this other man do?

A. An assembly man, too.

750 Q. Was he doing the same kind of work as Mr. Kinch?

A. Yes.

Q. Do you know whether or not they might have been talking about the work?

A. No.

Q. Do you know whether or not Mr. Kinch went over there to inquire about how to perform a certain job he was doing?

A. No.

Q. Did the foreman talk to Mr. Kinch after that?

A. Yes.

Q. What did he say?

A. He warned him about wasting his time, talking about various things, about his plans, instead of looking after his work.

Q. Is a man always wasting his time when he is away from his work in the plant?

A. Generally.

Q. Aren't there occasions when a man might of necessity go away from his particular bench in the performance of his work?

A. Not that I know of, there is no necessity for that man to go away. His foreman is there to look after him in that capacity.

Q. Where was his foreman on this occasion?

A. In the other end of the shop somewhere.

751 Q. He wasn't anywhere close by?

A. No.

Q. When was the next time you received any complaint about Mr. Kinch being away from his work?

A. It was around the time he was circulating the petition.

Q. Was it during his working hours?

A. Yes, the petition was passed around during his working hours.

Q. Was he walking around or was the petition passed from man to man?

A. He gave it out to this man, and they passed it around from man to man.

Q. Was Mr. Kinch walking around the shop or was the petition being circulated around?

A. I personally didn't see the one that Mr. Kinch had, I saw one that he had handed out to the men.

Q. So you don't know whether he just handed it to the man next to him, or how it started?

A. No.

Q. You didn't see him walking around the shop with it?

A. No.

Q. Now, did the foreman report to you that he saw him walking around with the petition?

A. Yes, sir.

Q. Who?

752 A. Duehras.

Q. What did he report?

A. He told me he was circulating the petition around the plant.

Q. What did he mean by circulating the petition? Did he mean Mr. Kinch had the petition walking around with it or how did Mr. Kinch carry the petition?

A. There were six copies, I think, of that petition circulated throughout the shop.

Q. So Mr. Kinch could not possibly have walked around with it?

A. Not with every one.

Q. If anyone walked around with every one there, there might have been five other men walking around, too?

A. Yes, but Mr. Kinch brought them there for them to do it.

Q. He started it?

A. Yes, sir.

Q. He wrote up the petition?

A. Yes, sir, he brought copies of it in.

Q. He brought in all six?

A. Yes, sir.

Q. And there might have been others who walked around with the petition?

A. I caught one man with a petition.

Q. Who did you catch?

753 A. I caught one of the inspectors from No. 2 shop; Mr. Kinch worked in No. 3 shop.

Q. What was this inspector's name?

A. Rosennecke.

Q. Did you fire him?

A. What?

Q. Did you fire him?

A. No.

Q. What did you do?

A. I warned him and told him he had no business to do that kind of stuff.

Q. Did you fire anybody else for circulating a petition?

A. No, not at that time.

Q. Did you fire anybody later for circulating these same petitions?

A. No.

Q. Did you warn anybody else at that time?

A. We warned various men at different times; we even warned the Works Council men for the same thing and different things, at different times, in the last four or five years, for going around during working hours.

Q. With petitions?

A. Well, whether they had petitions or not with petitions, but going around talking to the men.

Q. Did you ever fire anybody for going around with 754 petitions?

A. No.

Q. Did you ever fire anybody for going away from his work during working hours when you knew he was discussing some question of the Works Council with a fellow employee?

A. That is a hard thing to answer but I guess we have done it.

Q. Well, within the last year and a half.

A. I couldn't be sure about that.

Q. At least you cannot recall any such case to your mind?

A. No, I couldn't.

Q. Can you tell us in the last three years how many men have been discharged by the company for the same reasons for which Mr. Kinch was discharged?

Mr. Engelhard: Now, that is hardly a fair question; the reasons for which Mr. Kinch was discharged have not been developed by this man.

Trial Examiner Batten: Well, I presume he knows the reason.

Q. (By Trial Examiner Batten.) Do you know the reason Mr. Kinch was discharged,—don't you?

A. Certainly.

Q. What was the reason?

Trial Examiner Batten: Well, I think he may answer the question asked, whether or not there were any others in 755 the last three years discharged for the same reasons.

The Witness: I don't remember.

Q. (By Mr. Lamfrom.) Was there any case when other employees did the same things that Mr. Kinch did up to the time of his discharge?

A. No.

Q. (By Mr. Rissman.) Have you had any disturbers in the plant other than Mr. Kinch?

A. Only since the C. I. O. came in.

Q. Have you discharged any of them?

A. We discharged two.

Q. They have been reinstated?

A. They are reinstated.

Q. Prior to the C. I. O. did you have any disturbers in the plant who were discharged?

A. We had one man, I think.

Q. Who was that?

A. A man by the name of Goldman.

Q. How long ago was he discharged?

A. About seven years ago, I imagine.

Q. In the last four years.

A. Four years, I couldn't say.

Q. Do you remember Rudolph Oristo?

A. Yes, I don't know him under that name; his name is Goldman, as I knew him.

756 Q. Is that the man over there?

Mr. Rissman: Will Mr. Oristo please stand.

The Witness: I knew him as Goldman.

Q. (By Mr. Rissman.) He worked under you?

A. Yes, sir.

Q. When was he discharged?

A. I couldn't say exactly how long ago that was, but I would say five or six years ago.

Q. Why was he discharged?

A. Well, he didn't follow the rules of the shop.

Q. What rules of the shop did he violate?

A. Walked around, going different places where he should not be, and for talking and things like that.

Q. The same thing as Mr. Kinch?

A. Yes, sir.

Q. He was never reinstated?

A. No. When he was discharged he insulted the foreman very badly and the foreman would not have him back any more.

Q. Now, these men who were discharged recently, since

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the C. I. O. has been, were they guilty of the same things, the same things Mr. Kinch and Mr. Oristo were guilty of?

A. They were guilty of the same thing as Kinch and more, only it was this time, they were threatening workmen.

Q. Why were they reinstated?

A. I beg your pardon?

Q. Why were they reinstated?

A. Mr. Falk reinstated them.

Q. Why were they reinstated?

A. I couldn't tell you, Mr. Falk reinstated them; I had nothing to do with it.

Q. You don't know the reason for it?

A. No.

Q. Did you ever report to Mr. Falk about the activities of Mr. Kinch?

A. Yes.

Q. When?

A. Two months before his discharge.

Q. What did you report?

A. That he was interfering with the men, disturbing the men with his theories and things like that.

Q. Tell me, Mr. Green, how was he disturbing them with his theories?

A. Well, he was there in the office one day and told the management could do 30 per cent more work if they got a share of the profits, and that upset the men because the men knew they couldn't do 30 per cent more.

Q. So, he was putting funny ideas in their heads?

A. Yes,—well, it wasn't a funny idea, it was practically an insult to the intelligence of the men.

Q. In what other ways did he disturb the men?

A. By his petition.

Q. How did he disturb the men?

A. The biggest part of the men were against his petition, because it wasn't practical, they thought it wasn't practical to have one scale because the men in the higher brackets could get their wages lowered and they would have to work for so much less money if they were classified.

Q. These things caused a mental effect upon the men, so to speak, these various activities of his?

A. There was another time when some of these men didn't sign his petition.

Q. Yes.

A. Of course, if they didn't sign the petition other men

ostracized certain men and the consequence was some of these men spoiled work because they couldn't work.

Q. You mean because of their mental condition?

A. Yes, sir.

Q. They were embarrassed?

A. Yes, sir.

Q. Did you ever see Mr. Kinch interfere with the work of men physically by his presence at their place of work?

A. Not personally, no.

Q. Was it ever reported to you?

A. It was reported to me by the foreman—by the two foremen.

759 Q. In what manner did he physically interfere with the work of the men?

A. By talking to them and not letting them work.

Q. Did that ever result in any spoiled work or errors in work?

A. That I couldn't say.

Q. Was it ever reported to you that it did?

A. No.

Q. If Mr. Kinch were to be reinstated at the plant and if he were to refrain from influencing men in their thoughts about how much they could earn and should earn would he be a good worker?

A. I think we would get a lot of objections from the workmen.

Q. Why?

A. Because of his activities before.

Q. Is it the practice of the company to consult the workmen whenever they hire a man and put him in the shop?

A. No.

Q. Is it the practice of the company to consult the workmen whenever they want to discharge a man?

A. No.

Q. Is there any reason why the company would not have Mr. Kinch in its employ, assuming that he refrained from his disturbing influences?

760 A. I don't see any reason except what I have just stated.

Trial Examiner Batten: I think we will adjourn, gentlemen until two o'clock.

(Whereupon, at 12:30 o'clock p. m., a recess was taken until 2:00 o'clock p. m. of the same day.)

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After Recess.

(Whereupon, the hearing was resumed, pursuant to recess, at 2:00 o'clock p. m.)

Trial Examiner Batten: I believe we will proceed, gentlemen.

We have the permission of Mr. Clark, who represents the Independent Union, and Mr. Goldberg, who represents the Operating Engineers, to proceed.

HARRY GREEN, resumed as a witness by and on behalf of the National Labor Relations Board, being previously duly sworn, testified further as follows:

Direct Examination (Continued).

Mr. Rissman: Mark this Board's Exhibit No. 25 for identification.

(Whereupon, the document above referred to was marked Board's Exhibit No. 25 for identification.)

Q. (By Mr. Rissman.) Mr. Green, I hand you herewith Board's Exhibit No. 25 for identification, and ask you to tell me what that booklet is?

(Handing document to witness.)

A. It is a book of by-laws of the Falk Works Council.

Q. Are those the by-laws that were in effect during all the time that the Works Council existed?

762 A. Practically.

Q. Directing your attention to page 18, Article 13, will you read what appears thereon paragraph No. 1.

A. Yes.

Q. Now, that paragraph states as follows:

"Every employee representative serving on the Works Council shall be wholly free in the performance of his duties as such and shall not be discriminated against on account of any action taken by him in good faith in his representative capacity," does it not?

A. Yes.

Q. Now, what is the meaning of that paragraph with reference to the acts of Mr. Kinch in and about the plant?

A. I would say that that paragraph means there outside of working hours.

Q. Does it say that?

A. It does not say that but it is understood that way.

Q. How was it understood?

A. It was understood that way among the representatives.

Q. Were there any other rules or by-laws of the Works Council other than those contained in this booklet?

A. Not after that booklet was drawn up.

Q. I direct your attention to Article 16 on the next page, page 19, and ask you to read that, please.

A. Yes.

763 Q. That article states that the "Employee representatives shall be compensated at their respective hourly rate for time spent at meetings of the Works Council and the Fact Finding Committee; and perform during working hours such other duties as they may be called upon to perform under this plan."

Will you state now in view of that article what other duties a member of the Works Council could perform during working hours, in addition to attending meetings?

A. Only if he was working for the Works Council attending to some other matter.

Q. Did the representatives of the Works Council have any other duties aside from those assigned to them specifically?

A. Only by the Works Council.

Q. Didn't they have any general duties by virtue of their being representatives?

A. No.

Q. Wasn't it their duty to know the disposition of the employees they represented on any particular matter?

A. Only by these men bringing it up to them.

Q. Wasn't it the duty of the representatives to determine how the employees in their particular departments felt with reference to any matters, such as a wage increase or over-time pay, or any other conditions?

764 A. I think you will find in there that things like that were supposed to be taken up with the foremen first.

Q. Yes.

A. And then with the representatives.

Q. That is right.

Mr. Lamfrom: Refer to Article 12 on Procedure for Adjustments.

Q. (By Mr. Rissman.) This refers to the condition where an employee had a particular grievance, he was first to take

it up with his foreman and if he could not get any satisfaction there, he was to take it up with his representative.

A. The superintendent and then the representative.

Q. And the representative.

A. Yes.

Q. But in addition to that, on the question of general wage increase or on the question of whether or not the employees would work on days,—whether they would work on voting days or election days, and by elections days I mean the city and state, don't you know that it was the duty of the representative to find out how the men in his department felt about those things?

A. That is what they invariably did.

Mr. Rissman: I offer in evidence Board's Exhibit 25, Mr. Examiner.

Trial Examiner Batten: If there is no objection, it 765 will be received.

(Thereupon the document above referred to, heretofore marked for identification as BOARD'S EXHIBIT NO. 25, was received in evidence.)

Q. (By Mr. Rissman.) Were you a management representative, on the Works Council, Mr. Green?

A. No.

Q. Did you ever attend any meetings of the Works Council?

A. I was chairman; I had no vote.

Q. You were one of the members of the company who attended meetings.

A. Yes.

Q. And as chairman you participated in the various discussions?

A. Yes, sir.

Q. And you were in a position to know which of the employee representatives were active and which were inactive in the Works Council affairs.

A. Yes.

Q. After the passing of the Works Council, Mr. Green, did you have anything to do with the formation of the Independent Union of Falk Employees?

A. No.

Q. Pardon?

A. No.

766 Q. Now, did you ever talk to anybody about that organization?

A. No.

Q. Well, did you ever talk to Mr. Falk or any of your superiors about it?

A. Not to my knowledge.

Q. Did you ever talk to any employees about it?

A. No.

Q. Did you ever talk to any foremen about it?

A. Repeat that question.

Mr. Rissman: Read the question please.

(The question was read.)

A. Not to my knowledge, I didn't.

Q. (By Mr. Rissman.) Have you ever spoken about the Independent Union at any time to anybody?

A. Yes, sir.

Q. To whom?

A. Mr. Landrey.

Mr. Lamfrom: Who?

The Witness: Mr. Landrey.

Q. (By Mr. Rissman.) Mr. Landrey is president of the Amalgamated Association of Iron, Steel and Tin Workers?

A. Yes, sir.

Q. When did you speak to him?

A. Well, he has laid complaints at different times 767 about the Independent Union doing things and I have talked about it, and I told him neither the Independent Union nor the C. I. O. nor any other union could do any soliciting or collecting of dues during work hours.

Q. Did you find that the Independent Union had been soliciting or collecting dues during work hours?

A. Both of them.

Q. Answer my question please.

Mr. Rissman: Read the question please.

(The question was read.)

A. I personally did not see it, but it was reported to me that they were doing it.

Q. (By Mr. Rissman.) It was reported to you who was doing it?

A. The Independent Union.

Q. I mean which individual.

A. I couldn't tell you the individual, it was said the Independent Union.

Q. What action did you take with reference to that activity by the Independent Union?

A. I went and warned the members of the Independent Union that they could not do that, and I also warned the C. I. O.

Q. What was your instructions exactly as to such activities by union people?

A. Mr. Falk told me not to allow them to do it on any side.

768 Q. And you have enforced that order impartially?

A. Absolutely.

Q. And wherever you noticed a violation of it by the C. I. O. or Independent Union, you remedied it?

A. I have tried to remedy it.

Q. What is the situation at the present time, has it been remedied?

A. Practically, so far as I know.

Q. When was the last time you had any reports of violations of that rule made to you?

A. Possibly four weeks ago, four to five weeks ago.

Q. What did you do in that case?

A. I went and warned them again.

Q. Have you done anything more severe than merely warn the people who were supposed to be guilty of such violation?

A. Not since those two men were discharged about two months ago.

Q. You refer now to those men who were reinstated?

A. The two men who were reinstated.

Q. Have you any preference, Mr. Green, for either one of the labor organizations involved there, the Independent Union or the C. I. O.?

A. I have not, as I told Mr. Landrey, I don't care whether it is the C. I. O., the Independent, or the A. F. of L.; I told Mr. Landrey only last week, and I have told him that

769 more than once.

Q. You feel that way about all three organizations.

A. Absolutely.

Q. What is your feeling about the three organizations?

A. Pardon?

Q. What is your feeling about them?

A. I don't know what you mean by "feeling".

Q. You said you felt the same way about the C. I. O., the A. F. of L., and the Independent Union.

Will you please tell us what that feeling is?

A. Well, I just feel they are all in the boat.

Q. Which boat is that?

A. Well, they are organizing to get what they can out of the people, that some of them are going a different way about it, that is all.

Q. Which way do you think is the best way of the three?

A. I can't express an opinion on it.

Q. Why can't you?

A. How can I?

Q. Do you have an opinion?

A. The only opinion I have, you might say, the Independent, they don't pay any dues, that is the only thing about it; I don't know anything other about it.

Q. Well, do you have an opinion as to which of these three organization is the best one for the employees of 770 The Falk Corporation?

A. No, I haven't, I have no preference.

Q. I didn't ask you if you have a preference. I asked you if you have an opinion.

A. I have no opinion on it.

Q. What did you mean when you said all you know about the Independent is that it has no dues.

A. Well, what I mean by that is that they collect the dues for their own men and don't send it out of the city somewhere else.

Q. You think the fact that they keep their dues for their local organization rather than pay a per capita tax as other national labor organizations do that makes it a better organization in that respect than the others?

A. I think it is better for the men themselves personally.

Q. Have you ever expressed that opinion to any of your men?

A. No.

Q. Do you know anything about the dues of the C. I. O. or the A. F. of L., or the Independent Union, how much they are?

A. Only what I have heard.

Q. What have you heard?

A. I have heard the A. F. of L. was \$1.50, I think it is. I don't know what they have to join.

The C. I. O. \$1, and the Independent was \$1.25, or something like that. I would not be sure on those figures.

771 Q. Have you ever considered in connection with dues, the fact that the two organizations, the A. F. of L. and

the C. I. O. dues have to be sent to the International, as you say, outside the city, the respective advantages or disadvantages furnished by those organizations as compared to the advantages if any, furnished by the Independent Union?

Mr. Lamfrom: Now, just a moment. It seems to me this man has gone far enough. I don't see how that is material, as to what Mr. Green's views are on dues paid by people.

Mr. Rissman: Mr. Green's views are highly material and relevant.

Trial Examiner Batten: I think Mr. Green's views as to whether or not he favors a labor union, and if so, what type, is material.

Mr. Lamfrom: But here—

Trial Examiner Batten: Now just a moment until I get through with my remarks.

I am not so sure that the internal workings of these organizations, such as their dues and so forth, are particularly material, because in fact I don't think it is material what anybody connected with the company thinks about dues, if they all go out of town or stay in town, or if they have a party and spend it.

The material thing I think, Mr. Rissman, is whether his view with respect to organized labor and the Independent Union or outside union, or affiliated union, in the same way that Mr. Falk's views were material.

Mr. Rissman: I am trying to find out on what Mr. Green bases his preference for the Independent Union over the other unions. He says he has a preference because of dues of the Association, and we will find out if he has—

Mr. Lamfrom: He didn't say he had a preference. You tried to lead him into that cul-de-sac, but he would not go. (Discussion followed outside the record, as previously directed.)

Trial Examiner Batten: I think it is material in that respect to find out from Mr. Green whether he knows anything about whether any dues were ever sent out of town.

Mr. Rissman: I don't think he does. Do you?

The Witness: I couldn't answer that except some C. I. O. men told me they get a quarter out of the dollar, and the other 75 cents goes out of town.

That is all I know about it.

Q. (By Mr. Rissman) Now, Mr. Green, outside of the dues question, assuming these unions have the same dues and

all the dues stay here in town, the dues situations were exactly the same, which organization do you think would be the better one for your employees to join?

A. Well, after being chairman of the Works Council for four four years, and seeing how they worked, I think a 773 union belonging to their own shop is better because they get more out of it, would get more out of it than any other union I have seen or heard about.

Q. Have you had any experience with unions, outside of your experience with the Works Council, and outside of your experience in the past two months?

A. No.

Q. When they—when you say they get more out of a union in their own company, you mean out of the union of The Falk Company.

A. Not The Falk Company union, their own union.

Q. Their own union is limited to The Falk Company?

A. Yes.

Q. Like the Independent Union in this case.

A. I think so, yes.

Q. What reason or reasons do you have for feeling that the workers would get more out of that kind of union than the other type?

A. I have seen what the Falk employees got with the Works Council, working four years, and I think they would be better off with their own union in that respect.

Q. Have you ever had an opportunity to compare what they got through the Works Council with what they might have received if they had an outside organization for the past four years?

A. No, only compared other plants, what they got, 774 with what ours got.

Q. Tell us—

Mr. Lamfrom: Let him finish.

Q. (By Mr. Rissman) Tell us, Mr. Green, some of the important things that you got as a result of the Works Council.

A. Well, they got raises in wages quite a number of times, they got bonuses, they got group insurance, they got departmental picnics, bowling parties, and various things like that, and if a man was—if a man didn't have very much money and wanted to borrow money, The Falk Corporation loaned him money without any interest, such things as that.

That was all done through the Works Council at different times.

Q. In your experience as superintendent of the plant for the past 21 years, did the employees get raises before there was a Works Council?

A. Depending on the times, yes.

Q. And did they get bonuses without the Works Council?

A. No.

Q. Did they have picnics without the Works Council?

A. Excuse me.

Q. Yes.

A. Now, you said 21 years. I think in 1920—in 1919 or 1920 there was a bonus paid; I am not quite sure, but I am pretty confident at that time there was.

Q. It has been the policy of The Falk Corporation, and I assume it is now, to grant increases and bonuses whenever the company felt that business permitted such increases or such bonuses, hasn't it?

A. They have them, yes.

Q. Don't you know, Mr. Green, as a man that has been with the company for 26 years, that the company would have granted those same increases and bonuses even in the absence of the Works Council?

A. No, I don't think so.

Q. Don't you think an outside union would have been able to obtain the increases?

A. I don't think so.

Q. Why not?

A. Because I don't think it could have been done.

Q. What was there about the set-up of the Works Council that made it such an effective organization in obtaining increases that you say otherwise would not have been given?

A. Because they were our own men, and they listened to them rather than any outsiders.

Q. Won't the company listen to outsiders?

A. I don't know.

Q. Then you don't know whether or not an outside organization might not have done a better job in getting more increases and greater bonuses.

A. I don't think they could have done it.

Q. But you don't know, do you?

A. How?

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Q. You can't say they couldn't have.

A. Well, of course not.

Q. Have you had occasion to speak to any employees because of their C. I. O. activities in and around the plant in the last few months?

A. Yes.

Q. Can you name any of the employees to whom you so spoke?

A. This was one by the name of Rasey.

Q. How do you spell his name?

A. R-a-c-y—excuse me, that is R-a-s-e-y.

Q. When did you speak to him?

A. He was going around with those cards.

Q. Application cards?

A. Application cards.

Q. What did you say to him?

A. I told him that he could not do it.

Q. What else did you say to him?

A. I told him nobody else could do anything—nobody else could do it, any other man in the plant, as it was against the rules of the plant, and against the law to do that, that those—to do those kind of things.

777 Q. What did he say?

A. He admitted he had done it.

Q. Did you have occasion to speak to any others that you can name?

A. Only those two men that were let go and reinstated. Oh, yes, there was another one, a man by the name of Bernettie.

Q. Bernettie?

A. Yes, sir.

Q. When did you speak to him?

A. Some time around March or April, some time in there. I saw him too.

Q. When did this rule become effective, that they were not to pass out application cards on company time?

A. I couldn't tell you the exact date.

Q. How was the rule announced to the employees?

A. Through the foremen.

Q. Was there any written notice posted?

A. No.

Q. Was there any letter?

A. Not until a later date.

Q. When was the written notice posted?

A. I couldn't tell you exactly, but Mr. Wilson had a copy of it and Mr. Landrey had a copy of that I think.

Mr. Lamfrom: Is that the notice of April 16th?

778 Mr. Rissman: Off the record now please.

(Discussion outside the record.)

Q. (By Mr. Rissman) Do you recall, Mr. Green, speaking to Joe Pemper? Do you know Joe Pemper?

A. Yes.

Q. Who is he?

A. I think I did speak to him.

Mr. Engelhard: Just a moment, I can hardly hear what you say when you talk so quietly.

Q. (By Mr. Rissman) I am sorry.

You say you do recall speaking to him?

A. Yes.

Q. When did you speak to him?

A. Oh, I couldn't tell you the date.

Q. What did you say to him?

A. I asked him if he was going around with application cards and he denied it.

Q. Why did you ask him, did you see him?

A. No, because I had been told he was doing it.

Q. Who told you?

A. One of the men.

Q. One of the workers?

A. Yes.

Q. A foreman?

A. No.

779 Q. Who was the man?

A. I couldn't tell you offhand either.

Q. You mean you don't remember or you can't tell us?

A. I don't remember.

Q. What did this man tell you?

A. That he was going around with application cards.

Q. How did this man happen to tell you about it?

A. He just came and told me, that was all.

Q. Did he come to you during work hours.

A. Yes, sir.

Q. What kind of work does this man do, machinist?

A. No, I think he was a helper.

Q. A helper?

A. I couldn't remember exactly.

Q. Did you reprimand him for leaving his working during work hours?

A. No.

Q. Wasn't that a violation of the company's rules?

A. A man can come and speak to me at any time, any man.

Q. Will you answer my question please?

A. No.

Q. You say it is not a violation of the company's rules?

A. No, it isn't a violation of the company's rules for men to come and speak to me at any time.

Q. Is this man in the habit of coming to speak to 780 you, to tell you about the activities of other men in the plant?

A. No.

Q. Is this the first time he had done it?

A. Yes.

Q. Tell us, what did he tell you about Joe Pemper?

A. Just exactly what I said; he said that he was handing petitions out; the man denied it, and then it dropped, there was no more to it.

Q. What else did you say to Pemper, besides ask him if he had passed out application cards?

A. When he denied it I told him it was against the rules of the shop for him to do it, and for him not to do it.

Q. Does your—Mr. Green, do you know that Joe Pemper just a short time before you spoke to him had received a raise in pay?

A. Before I spoke to him?

Q. Yes.

A. I think it was later.

Q. Later?

A. Excuse me, I give him a raise before that.

Q. Before that?

A. Then I give him a raise after that.

Q. Did you mention that raise to him at the time you asked him about these application cards?

A. I would not be positive about that.

781. Q. Let me refresh your memory, Mr. Green: Didn't you approach Joe Pemper on April 14th, 1937 and say to him, "I am surprised at you, Joe, you have been taken care of by the company and now you are passing out C. I. O. cards"?

A. I didn't say it in those words at all.

Q. What words did you say?

A. Well, I told him he should not pass out cards on the company time.

Q. - And didn't you say further to him, "If you must work for a union, work for our union and nobody will say a word to you"?

A. Absolutely not.

Q. What did you say?

A. Nothing like that at all, never mentioned any union at all.

Q. You are quite positive?

A. Quite positive.

Q. You said nothing about the Independent Union?

A. Absolutely not.

Q. You said nothing to him about the C. I. O.?

A. No, outside of passing the cards out.

Q. Have you ever spoken to any other employees about the C. I. O. or the Independent Union?

A. Yes, I spoke to Mr. Landrey, I have talked to Mr. Landrey at different times.

Q. That was in connection with the complaint that he had made to you?

A. Yes, sir.

Q. Do you recall—

A. The same to William Kreger; I have talked to him, he has come to me with complaints.

Q. William Kreger is one of your employees?

A. Yes, sir.

Q. Do you know he is the Amalgamated Association vice president here?

A. I don't know what office he has, I only know he has come to me at different times and complained about, asked to get a raise for men.

Q. You knew he was an officer of the C. I. O.?

A. I knew he was a steward, that was all, I didn't know what office he held.

Q. Now, you know he is vice president. Do you know Mr. Larson in the Erecting-Assembly department?

A. Yes, sir.

Q. Have you ever spoken to him about C. I. O. activities?

A. I don't think it was C. I. O. activities I spoke to him about, it was for running around the shop, I suppose.

Q. What did you say to him?

A. I told him to keep on his job and not to run around
783 the plant.

Q. How did you know he was running around the
plant?

A. I saw him myself.

Q. Where did you see him running?

A. I saw him around the Erecting floor in No. 3 shop.

Q. Where was he at the time you spoke to him?

A. In No. 3 shop.

Q. On the occasion when you saw him running around or
later?

A. That same morning, one Saturday morning, as I re-
member.

Q. Was it the same time or was it a little later?

A. I spoke to him that same day because I had seen him
three or four different places where he should not be.

Q. Did you say anything about union affiliations?

A. No, sir.

Q. Didn't you say, "You had better stop this, getting the
men lined up for C. I. O. meetings"?

A. No.

Q. Nothing to that effect?

A. No, absolutely not.

Q. Did you ever say anything to him about the C. I. O.
or any other union?

A. No.

Q. Did Mr. Larson admit running around to different men
in the assembly department?

A. He admitted that he was not where he belonged.

784 Q. Did you ask him what he was doing where he did
not belong?

A. No, I saw him, and asked him what he was doing, and
he said he just had gone over to talk to a man.

Q. Did you ask him what he was talking about?

A. No, I didn't.

Q. Weren't you interested?

A. I didn't ask because the men do that—I didn't ask, I
seen him three times, he didn't stay on his job, but I didn't
know whether he was engaged in any union activities or any-
thing; I just saw him and I told him to stay on his job be-
cause I had a complaint from the foreman before that he was
running around, but not union activities.

Q. You say, not union activities?

A. The foreman did not say, but he said he was running around.

Q. Did you ever learn that Mr. Larson was engaged in union activities?

A. No, I don't know whether he is now, to my knowledge.

Q. On the various occasions, Mr. Green, that the C. I. O. officials have complained to you that workers were soliciting membership in the Independent Union on company time, did you investigate those complaints?

A. I went to the foremen and told the foremen to investigate.

785 Q. Have you ever received any complaints that the company had been warning or threatening men about joining the union?

A. No.

Q. You never received any such complaints?

A. No.

Q. Did you know that they were doing that?

A. No, I did not know they were doing it, and I don't think they were either.

Q. Have you ever spoken to the foremen about their position with reference to union activities?

A. I have told them that they had to be neutral and not take any sides whatever.

Q. Was that in a meeting with the foremen?

A. No, individually.

Q. Do you know, Mr. Green, whether or not the company has any preference for the Independent Union as compared to its feeling for the Amalgamated Association of Iron, Steel and Tin Workers?

A. No, I don't.

Q. Have you ever consulted anybody as to whether or not the company prefers one organization to the other?

A. No.

Q. Have you ever been advised as to whether or not the company favors the Independent Union over the other organization?

786 A. No, I have been advised that they do not care which organization they belong to, as long as the men were satisfied, that is all.

Q. By whom were you so advised?

A. By Mr. Falk at one time, he said he had no preference.

Q. When was that?

A. That was sometime during these activities, some time this year.

Q. Have you ever indicated to the employees which organization would be better for them?

A. No, never at any time.

Q. Have you ever indicated to the employees which organization might be the most satisfactory for them?

A. No.

Q. If an employee were to ask you, would you venture an opinion?

A. No, I would not.

Q. How long has that been your position?

A. Ever since the union activities started, before the Works Council ended.

Q. How long before the Works Council ended?

A. A month before.

Q. Do you know the attitude of the company to labor organizations who have representatives not employed by the company?

787 A. No, I had nothing to do with that.

Q. I didn't ask you if you had anything to do with it; I asked if you know the attitude of the company?

A. No.

Q. You were not aware of it at all.

A. No.

Q. You don't know that it is the position of The Falk Corporation to not favor an outside union?

A. I don't know that for this reason, that we have got men that have been there—I have got some men working in the machine shop, one has been there 30 years who belongs to the A. F. of L.; I have got another who has been there 15 years who belongs to the A. F. of L., and two or three more belonging to the A. F. of L. have been there all of this time.

Q. Has the A. F. of L. ever attempted to deal or bargain for those men?

A. No, but these men have never been discriminated against and they have been there all the time.

Q. But their membership in the A. F. of L. has no bearing upon their work one way or the other?

A. No.

Q. Don't you know that it is the position of the Falk Corporation as announced by Mr. Falk in public addresses he has made, and in statements to the employees in your pres-

ence and otherwise, that the company does not favor labor 788 unions?

A. At that meeting you are speaking of in my presence, I was not at that meeting, I wasn't allowed to be at that meeting.

Q. What?

A. You are speaking of,—you said a meeting with the employees.

Q. At any time.

A. No.

Q. Didn't you ever see any notices or letters written by Mr. Falk where he said, "We do not favor unions"?

A. Not to my knowledge.

Q. I hand you herewith Board's Exhibit No. 18 and ask you if you have ever seen that or anything similar to it?

Mr. Engelhard: Now, that is a rather broad question. You mean he saw Exhibit 18?

The Witness: I had nothing to do with this power house.

Trial Examiner Batten: The question is, did you see that letter?

The Witness: Not to my knowledge, I didn't see this letter, it wouldn't come to me in the ordinary course of business; I didn't have anything to do with this.

Q. (By Mr. Rissman) Directing your attention to the elections that were conducted at the plant for the first representatives of the Works Council, do you recall at that 789 those elections in 1933—

A. Yes.

Q. How many elections were held in the machine shop?

A. I couldn't tell you offhand without going back to the minutes, there were so many representatives elected from the machine shop and so many from the foundry.

Q. Was there more than one election in the machine shop for the first group of representatives?

A. I couldn't remember offhand about that.

Q. Do you recall at that time just prior to an election, Mr. Harold Falk addressed the employees in the machine shop?

A. Yes, but I wasn't allowed to that meeting; that wasn't when the Works Council was inaugurated, that was at a later date.

Q. I am talking now to the meeting before the Works Council was inaugurated.

A. No.

Q. Do you recall the election?

A. That meeting you speak of in the machine shop was after the Works Council.

Q. Were there any meetings in the machine shop before the Works Council?

A. I don't remember.

Q. Do you recall that at the first election of the Works Council representatives there were quite a number of 790 votes for workers and representatives of the American Federation of Labor?

A. That wasn't at the inauguration of the Works Council as I remember.

Q. When was it?

A. It was much later.

Q. But you do recall that took place.

A. Yes, that these men put outside names on the ballots.

Q. Do you recall what was done with those ballots that had outside names?

A. I think they were thrown out.

Q. And can you indicate for us some of the names of the representatives that appeared on the outside ballots that were thrown out?

A. I think—

Q. Let me refresh—

A. —Otto Jerekovitch.

Q. Otto Jerekovitch of, the Machinists Union?

A. That was Freiddich.

Q. Jake Frieddich of the Machinists Union?

A. Those are the only two I remember; there were those two—

Q. Do you know why they were thrown out?

A. Because the Works Council was inaugurated for the shop alone, for the Falk Corporation Works Council.

791 Q. Do you know, or was it ever reported to you, or did you ever hear Mr. Harold Falk say at that time that he did not want the men to vote for outside men representatives?

A. I was not at any meeting when he made that statement.

Q. Did you ever hear he made such a statement?

A. I don't remember.

Q. Do you know, Mr. Green, if at the present time, the employees of your company in your department who are members of the C. I. O.?

A. I know some of them, I don't know all of them, I could not tell you; I know some of them because they wear buttons.

Q. How many buttons do you see displayed, can you tell us?

A. Well, I couldn't tell you, I don't count them.

Q. Did you know about the meetings that were held on April 11th and for a few days thereafter, after which the Independent Union was conceived?

A. I had nothing to do with it, I wasn't in those meetings at all.

Q. Did you know about those meetings?

A. I heard about them.

Q. What did you hear about them and from whom?

A. The old Works Council I guess got themselves together and started trying to get an independent union, that is about all I know about it.

I was excluded from those meetings, I had nothing to do with them.

Q. Do you know who addressed the workers at that meeting?

A. Pardon?

Q. Do you know who spoke to the workers at that meeting?

A. No, I was not there, I don't know.

Q. Were you at the last meeting of the Works Council, Mr. Green, on April 8th, 1937?

A. I think the last meeting I was at was March, the March meeting, I think, I would not be positive.

Q. Did you attend the April meeting?

A. I am not sure about the April meeting; I think the last one I attended was in March.

Q. But there was a meeting in April?

A. Yes,—April was the last meeting?

Q. Yes.

A. Then I was there; I thought it was March.

Q. No, April. Now, do you recall anything that was said at that meeting with reference to the necessity of giving up the Works Council?

A. The only thing they said, the Works Council would be outlawed.

Q. Who said that?

A. I think we got some advice from somewhere that would be outlawed, like the Harvester was outlawed.

Q. You are referring to the International Harvester Company?

A. Yes.

Q. What else was said?

A. I don't know anything else that was said that I can remember relative to that.

Q. Let me refresh your recollection, and you tell me if you remember. Do you recall at that time it was said that the Works Council would be outlawed and it would be necessary for the men to have some kind of representation to take its place, and that it would be advisable to have an independent union rather than the A. F. of L. of the C. I. O.

A. That may have been said, they may have said that, something like that, but I don't recall the exact words.

Q. Not the exact words, but something like that.

A. There may have been something like that said.

Q. Do you recall whether or not the employees who attended these meetings on April 12th, when they were going to organize this Independent Union, were paid for the time they were away from work?

A. Yes, I heard about that, that they were paid for the time they were away from work and then it was deducted from their wages later.

Q. How much later was it deducted?

A. The next pay day I guess.

Q. Do you know why it was deducted?

794 A. Because it is illegal to pay those men, the way I understood it.

Q. They were paid the regular hourly rate the same as they had previously been paid for attending Works Council meetings?

A. Yes.

Q. Do you recall any complaint you received from the men because the amounts were deducted from the later pay envelopes?

A. Any complaints?

Q. Yes.

A. No, I didn't hear any complaints.

Q. Did they complain to the foremen?

A. I didn't hear of any.

Q. If any of your foremen, Mr. Green, were engaged in C. I. O. activities or in activities in favor of the Independent Union of Falk Employes, that is contrary to the orders you issued to them, was it not?

A. Yes.

Q. They were doing it on their own initiative?

A. Yes.

Q. And they were doing it in violation of the rules announced by the company?

A. Yes, sir.

Q. But you don't know whether or not the foremen
795 did engage in any such activities, do you?

A. To my knowledge they did not.

Q. They didn't report any such activities to you?

A. No.

Q. (By Mr. Lamfrom) Nor did anyone else report such activities on the part of the foremen, reported to you?

A. No.

Q. (By Mr. Rissman) What action—pardon me, what penalty would there be to foremen who had engaged in such activities?

A. It is a pretty hard question to answer, I don't know.

Q. Just talk to him about it, would that be all?

A. How?

Q. You would just talk to him about it and tell him to stop it, cut it out?

A. That is about it, warn him about it.

Q. "Don't let it happen again," something of that sort?

A. Yes.

Q. (By Mr. Lamfrom) Suppose that after you warned him, that he would repeat those activities again and again, what would you do?

A. Fire him.

Q. (By Mr. Rissman) These meetings of the organization of the Independent Union were held on company property and on company time, were they not?

Mr. Engelhard: Just a moment; there is no evidence
796 here that the meetings held, he does not know what they were. He has heard that they might have been held for such purposes, but there is no evidence here to show what these meetings were held for, and I don't think that is a fair question to this man, a question about which he confessedly does not know anything.

Trial Examiner Batten: I think you might ask him whether or not he knows they held meetings. He can answer yes or no.

Mr. Rissman: He has testified there were meetings held.

Trial Examiner Batten: Ask him if he knows what the meetings were held for.

The Witness: I was not at the meetings.

Q. (By Mr. Rissman) These meetings that were held on April 12th, after the Works Council had expired, were they held on company property?

A. Yes.

Q. During working hours?

A. That I could not say.

Q. But you know that the men who attended them were paid on a regularly hourly—paid on their regularly hourly rate?

A. Yes.

Q. (By Mr. Lamfrom) Were those men to whom the money was paid on the regular hourly rate, was it later deducted?

A. I did not get that.

797 Q. You testified these men were paid, the men that attended meetings, were paid their regular hourly rate without deduction. Were those same men to whom the money was paid, was it later deducted?

A. Yes, that is the way I understood it.

Trial Examiner Batten: While there is a lull in the proceedings, Mr. Goldberg, I think I owe you an apology. I find your substance of your recollection of the testimony this morning was correct.

Mr. Goldberg: You don't have to apologize, I am wrong quite often on these things.

Trial Examiner Batten: Of course I would not admit I am often.

Mr. Lamfrom: This gentleman just came in with a subpoena in the Harnischfeger matter—

Trial Examiner Batten: Off the record.

(Discussion outside the record.)

Trial Examiner Batten: I believe we will recess for a few minutes.

(A short recess was taken.)

Trial Examiner Batten: I believe we will proceed, gentlemen.

Mr. Rissman: May I have the last question and answer read?

(The question and answer were read.)

798 Q. (By Mr. Rissman.) Mr. Green, are you in the practice of discussing with employees the union problems and union affairs?

A. No.

Q. Have you ever had any such discussions in recent months?

A. I don't think so.

Q. Have you ever spoken to any officer of the C. I. O. union

regarding the strength of their union, the purpose of it and things of that sort?

A. No.

Q. Have you had any discussions or conversations with Mr. Landrey or Mr. Kreger with reference to their union affairs?

I mean now in the sense of friendly argument with them or debate with them personally.

A. I possibly have, I would not swear to it, I possibly have.

Q. And in those discussions, you undoubtedly expressed your opinion as to what you thought of the union and its effectiveness?

A. Possibly I did.

Q. Do you know, Mr. Green, what employees in your plant are eligible for membership in the Independent Union of Falk Employees?

A. As far as I understand all employees outside of foremen and inspectors are eligible.

Q. Did you—do you recall any conversation with Mr. Landrey shortly after the application cards for the Independent Union appeared, where Mr. Landrey asked your opinion as to whether or not it was permissible to sign up apprentices in the Independent Union?

A. I think he did ask me that.

Q. Did you express your opinion?

A. I told him, I think, that those apprentices were under contract and I did not think they would be eligible in any union.

Q. Did you ever discuss with Mr. Landrey the wearing of union buttons in the plant?

A. The other day I did. He asked me why I didn't allow the men to wear buttons, and I told him I had nothing to do with them wearing buttons, for all I cared, whether the Independent, the A. F. of L. or any other kind of button. I have told Mr. Landrey that and I have told him that more than once.

Q. Did he make any specific complaint about buttons?

A. He said the men were scared of wearing buttons.

Q. Did he mention which men?

A. No, he didn't specify which men; he said "certain men" he didn't say which men; he just said "some of the men."

Q. Do you know what action or statement by you or your foremen caused him to complain about the wearing of buttons?

A. The only thing I know is that Mr. Landry himself, about the wearing of buttons, that is all. There wasn't 800 any foremen that caused them not to wear buttons.

Q. You say Mr. Landrey objected to them wearing buttons?

A. He wanted them to wear buttons, and he said the men were scared of wearing buttons.

Q. Do you know if the men have any reason to be scared to wear buttons?

A. I don't know of any reason whatever.

Q. Do you know if, as a matter of fact, they are scared to wear their buttons?

A. I don't know, I only know what Mr. Landrey told me.

Q. Have you any reason to doubt him?

A. Pardon?

Q. Do you doubt what Mr. Landrey told you?

Mr. Lamfrom: I object to that, if the Examiner please.

Trial Examiner Batten: The objection is sustained. If he does not know anything about it, I don't presume he is in a position to state.

The Witness: I can't tell that.

Q. (By Mr. Rissman.) Do you believe all of the things Mr. Landrey tells you?

A. Some of them.

Q. Is this item of buttons one of the things you believed or one of those you do not believe?

A. I believed what Mr. Landrey told me about that, yes.

Q. Mr. Green, do you feel, as superintendent of the 801 plant, that an employee who joins a labor organization other than the Independent Union, is displaying any disloyalty to his employer?

A. I would not say that.

Q. Do you think—do you feel that it indicates a lack of faith in his employer?

A. No.

Q. In your conversations with Mr. Landrey or other officers of the C. I. O. organization, have you ever expressed any opinion as to men who joined labor organizations?

A. I don't remember ever having done it.

Q. You would not say that you have not expressed an opinion, you just don't remember?

A. Well, I have argued with Mr. Landrey and Mr. Kreger at different times, I wouldn't say. We have argued back and

forth at different times and I wouldn't say what I told him, many times just like that button episode.

Q. And you have argued also on the subject matter of labor unions?

A. Shop affairs and things like that.

Q. Shop affairs and current affairs, have you not, and you have argued also about the State Labor Relations Board?

A. No, that didn't enter into the picture; I don't think he has ever argued the State Labor Board.

Q. Don't you recall ever expressing any opinion about the members of the State Labor Board, stating that you believed they were communistic?

A. I may have said that.

Trial Examiner Batten: Mr. Rissman, might I ask, suppose he did, what has that got to do with this case?

Mr. Rissman: It indicates, if the Examiner please, the superintendent's attitude towards labor organization, or any organization that seeks to persist—

Trial Examiner Batten: Of course, granting that he has a very hostile attitude towards labor unions, the important thing here is whether or not in the conduct of his job at this plant he showed his prejudice by things which he did and said and acts which he committed in the plant, isn't it?

Mr. Rissman: I have shown his prejudice and the witness denied acts alleged to have been committed by him, and I am merely establishing the basis for showing Mr. Green's acts by other witnesses.

(Further discussion outside the record, as previously directed.)

Mr. Rissman: If the Examiner please, I have shown all the personal views that I intend to show.

I have no further questions.

Mr. Engelhard: We will reserve Mr. Green's further testimony until we get into our case.

Mr. Rissman: That is the same situation we had previously.

Trial Examiner Batten: Well, Mr. Engelhard didn't say "reserve cross examination", he said "reserve further examination".

Mr. Engelhard: Well, I meant of course that any cross examination that is to be engaged in, we will engage in the cross examination at that time.

Mr. Rissman: Well,—

Trial Examiner Batten: Have you any objection to that procedure, Mr. Rissman?

Mr. Rissman: Not in addition to that I expressed at the conclusion of Mr. Falk's direct examination.

Trial Examiner Batten: Now, I wish you would restate it so that I thoroughly understand it.

Mr. Rissman: I object to the reservation of cross examination of any witness, inasmuch as the right to cross examine may either be exercised at this time or be waived at this time.

It is known, as counsel states, that he will examine all of these witnesses when he puts in his defense, and at that time he may ask him any questions that are material to the issues.

Mr. Engelhard: This is only with reference to Mr. Falk and Mr. Green. We don't propose to follow that procedure with other witnesses.

804 Trial Examiner Batten: The Examiner will make the same ruling as this morning, that as to those witnesses who may technically be considered to be respondent's witnesses, you may add to such examination you make at the time you present your matters, but it will only apply to those witnesses who might be technically considered respondent's witnesses.

Mr. Goldberg, do you wish to cross examine?

Mr. Goldberg: Yes.

Cross-Examination.

Q. (By Mr. Goldberg) Are you superintendent of the entire plant?

A. No, just the machine shops.

Q. You don't know anything that goes on in the power plant then, do you?

A. No.

Mr. Goldberg: That is all.

Trial Examiner Batten: Mr. Clark?

Mr. Goldberg: Just one other question.

Q. (By Mr. Goldberg) Has there been any organization work in the machine shop by the A. F. of L. union that came to your attention prior to 1937?

A. No.

Mr. Goldberg: That is all.

Trial Examiner Batten: I would like to ask one question.

805 Q. (By Trial Examiner Batten) The two men referred to this morning that were operating steam engineers, do either of those men come under your jurisdiction?

A. No.

Q. Well, the man that operates the stationary equipment, where is that equipment located, do you know?

A. That is in the power house.

Q. That is in the power house?

A. Yes, sir.

Q. And the man who operates moving crane, where is that located?

A. That is around the yards, on the derricks around the yards.

Trial Examiner Batten: That is all.

(Witness excused.)

Mr. Falk: Mr. Batten. I may be able to clarify your mind. The machines are like a switching locomotive with a derrick, they left things up and at the same time they are mobile about the yard.

Mr. Goldberg: Whom are they responsible to, who is their direct superior?

Mr. Falk: I think they come under the foundry management, Mr. Pritzloff.

Mr. Rissman: Mr. Hydar please.

Trial Examiner Batten: Proceed.

806 VICTOR J. HYDAR, a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination by Mr. Rissman.

Q. Will you state your name please.

A. Victor J. Hydar.

Q. What is your position, Mr. Hydar?

A. Employment and personnel work.

Q. Of the Falk Corporation?

A. Yes, sir.

Q. And how long have you been employed by the Falk Corporation?

A. In all since September, 1922.

Q. How long have you been in your present position?

A. I have been responsible for employment and personnel work for about the last four years.

Q. And in a short statement, can you tell us what that responsibility is, just what are your main duties around the plant?

A. The employing of people for work in the shop, advising them as to their rights under group insurance, attending to their claims under group insurance, and attending to any other personal matters that they may wish to take up with us and the supervision of apprentices.

807 Q. Prior to your present position in the plant, what work did you do there?

A. Apprentice supervision.

Q. How long did you do that work?

A. From 1926 until about 1932 or 1933.

Q. And your present position, the one you have occupied for approximately the last four years, is generally recognized as a management position?

A. I suppose so.

Q. You were secretary of the Works Council?

A. I was.

Q. Appointed by the company?

A. Yes.

Q. What were your duties as secretary of the Works Council?

A. Merely to record the proceedings of meetings, see to it that the minutes were written up, and distributed, and take care of any correspondence incident to the business of the Works Council.

Q. Tell us the procedure with reference to writing up the minutes of the Works Council?

A. Notes were taken while the meeting was in progress, and they were dictated after the meeting.

Q. By whom?

A. By myself, and then sent out to a printing concern where they were mimeographed and distributed among the men.

808 Q. During all the time that you were secretary, did you at any time consult with Mr. Falk or any other supervisory official of the plant as to the contents of the minutes before they were printed?

A. I perhaps did on one or two occasions.

Q. What was the nature of the changes, if any, that were made in the minutes after such consultation?

A. I don't recall any changes that were made, as to the contents of the minutes.

Q. What was the purpose of such consultation regarding the minutes?

A. Merely that the company's views, as they wished to express them, and as provided for in the by-laws of the Works Council, could be included.

Q. Were there ever any changes, additions or corrections to the minutes that were made between the time of the meeting—at the time of the minutes being recorded and the time the minutes were published?

A. Offhand I don't recall.

Q. Would you say that never occurred?

A. I would say that it did not occur with reference to any important matters.

Q. We are not concerned at the present with whether or not the changes were important; we are concerned now with whether or not there were ever any changes of that nature, important, or unimportant.

A. You mean by that, change in the minutes, in the contents of the minutes?

Q. I mean a change in the minutes from the time—an addition, change or correction from the time of the meeting until the time they were published?

A. I don't think there were ever any changes or additions.

Q. Or corrections?

A. Corrections possibly with reference to the wording of a statement here and there.

Q. Were there ever any corrections suggested by Mr. Falk or anybody else in a supervisory capacity of the company?

A. As to wording, yes.

Q. Now, Mr. Hydar, how long a time usually elapsed between the meeting and the publication of the minutes?

A. Oh, from five or six days to two weeks.

Q. Never longer than two weeks?

A. There may have been one or two occasions that run a little over, but on the average, about that.

Q. Did you know Anton Kinch?

A. I do.

Q. How long have you known him?

A. A number of years.

Q. You knew him during all the time of his employment in the company?

810 A. I don't know whether I knew him all during the time of his employment with the company, at least I don't recall.

Q. At least the last two or three years.

A. I knew him slightly in the last two or three years, yes, sir.

Q. You knew him during the time that he was a member of the Works Council?

A. Yes, sir.

Q. To what extent did you participate in suggesting to Mr. Kinch that he be a member of the Works Council?

A. Merely that he objected to accepting the nomination of the Works Council, and I spoke to him and asked him to reconsider and to accept the nomination.

Q. Why were you interested in having Mr. Kinch accept the nomination?

A. Merely because he had been nominated by a fair majority and we wanted him to take it.

Q. When did you speak to him in behalf of the nomination?

A. I believe after the nomination; I don't recall ever speaking to him about any such matter before.

Q. Do you recall what his objections were to accepting the nomination?

A. I do not at the moment.

Q. Do you recall any reasons you advanced in urging him to accept the nomination?

811 A. Reasons?

Q. Yes.

A. No, not that I remember.

Q. Did you consult with anybody with reference to Mr. Kinch's nomination other than Mr. Kinch?

A. Yes, I possibly have talked with Mr. Green and Mr. Falk.

Q. And why would Mr. Green and Mr. Falk be interested in Mr. Kinch's nomination as a representative of the employees?

A. In no other way except that if he had not accepted the nomination we would have been put to it to conduct another nominating ballot.

Q. Under the constitution, without referring to it, can you tell us in a general way whether or not any employee was consulted before he was nominated as to whether or not he chose to be nominated?

A. I do not know whether any were consulted about it.

Q. Was this the first time that any employee had been nominated and had refused to accept the nomination?

A. I am not certain, but I would say it was not the first time.

Q. On other occasions if there were any times, did you also interview the nominee?

A. In every instance we did.

Q. And urged him to accept the nomination?

A. As a rule, yes; I would say always.

812 Q. Do you recall what conversation you may have had with Mr. Falk or Mr. Green regarding Mr. Kinch's nomination?

A. No, I don't recall.

Q. Do you recall whether or not you were successful in convincing Mr. Kinch that he should accept the nomination?

A. I don't recall whether I particularly was successful in the matter or not.

Q. At any rate, after you spoke to him he changed his mind and did accept?

A. Yes, sir.

Q. And he was elected.

A. Yes.

Q. Did the nomination amount to an election or was there a separate ballot?

A. No, a separate ballot for the election.

Q. Do you recall whether or not Mr. Kinch was an active representative at the Works Council meetings?

A. What do you mean by "active"?

Q. Did he participate quite fully in the activities of the Works Council?

A. He took an active part in the discussions, yes.

Q. And he made various proposals?

A. Yes.

Q. And on behalf of the members he represented?

A. I think so.

813 Q. And he engaged in debates with other representatives on questions where he disagreed with them?

A. He did.

Q. Or where he supported them.

A. Yes.

Q. He did not take his duties lightly, or as a matter of course, did he?

A. No.

Q. Do you believe, as secretary of the Works Council, and as personnel man, who is able to judge the employees of the company that Mr. Kinch was sincere in his activities as a member of the Works Council?

A. I think he was.

Q. In these Works Council activities, do you recall Mr. Kinch quite frequently differed with the employer or the employer management representatives of the Council on such questions as increases, earnings of the company, ability of the company to pay bonuses and things of that sort?

A. As I recall it he was at variance with the policies, most of them.

Q. What constituted his variance with his fellow employee representatives?

A. Oh, I don't remember the details.

Q. Generally I mean.

A. Merely that—well, they just didn't always agree, 814 that was all.

Q. And referring back to the conversation with Mr. Kinch, where you urged upon him the acceptance of the nomination, as a representative, don't you recall he said, one of the reasons he gave for not accepting or not wanting to be a representative, was because he didn't want to be a sheep and go along like other employee representatives did?

A. I believe he did say some such thing.

Q. Don't you recall that he also objected because he said the employer representatives did not have any independent thought or action on the matters taken up?

A. I don't recall that statement.

Q. Don't you recall he said if he did accept the nomination he wanted it specifically understood that he was to act as his free agent and he would not compromise his principles as he saw them because he was not afraid of losing his job?

A. I believe he did say some such thing.

Q. And he did, as a matter of fact, very vigorously voice his protest against the haphazard manner of other employee representatives in passing upon matters that came up for discussion?

Mr. Lamfrom: Now, just a minute, I object to the form of that question because there is nothing here in the evidence to show that the other employees passed upon matters in a haphazard manner, nothing at all.

815 Mr. Rissman: Mr. Hydar is qualified—

Mr. Lamfrom: Just a minute, Mr. Rissman, your assumption is not warranted by any evidence that is here.

Trial Examiner Batten: I think, Mr. Rissman, if you will inquire of this witness as to what statements Mr. Kinch made—

Mr. Lamfrom: Yes.

Trial Examiner Batten: —with respect to that matter, let him repeat Mr. Kinch's statement, it would be a much more satisfactory way.

Mr. Lamfrom: Certainly.

Trial Examiner Batten: (Continuing) Of arriving at it.

Q. (By Mr. Rissman) If the witness makes those statements I will be glad to have him repeat them for us.

A. I don't recall the statements definitely, but I do remember Mr. Kinch stated that he would act individually, on his own initiative in matters.

Q. Now, referring to Mr. Kinch's statements at these various meetings, you say he was in disagreement with his fellow employee representatives as well as management representatives, was he not?

A. Frequently.

Q. Do you recall and can you tell us what the form—what some of his statements were that indicated disagreement with other employee representatives?

A. My recollection is merely a general recollection, that he would stand up for what he thought were his principles, but as to individual statements or individual instances, I have no recollection.

Q. Do you recall that he did protest to the other employee representatives that they were not adopting a vigorous attitude in presenting the claims of the men they were supposed to represent?

A. I don't remember that he ever made any such statement in a Works Council meeting.

Q. Something similar to it?

A. Or anything along those lines, he may have, but I don't remember that he did.

Q. Do you recall also that one of his recurring protestations was to the amount of time spent by the Works Council in discussing canteen affairs?

A. There were protests of that sort, whether by Mr. Kinch or others, I don't remember.

Q. But they were from employee representatives?

A. From both sides.

Q. From both sides?

A. Yes.

Q. In these protests that Mr. Kinch made about the activities of the Works Council and his disagreement, do you recall that he had any particular persons, fellow employee representatives who felt as he did about the work of the Works Council?

A. Would you state that question again?

Mr. Rissman: Read the question please.

(The question was read.)

A. I don't recall that he did.

Q. (By Mr. Rissman) What was the tenor of the meetings of the Works Council following the discharge of Mr. Kinch?

Mr. Lamfrom: Now I object to that, if the Examiner please, it does not mean anything, does not mean anything. What tenor? How can this witness answer?

Mr. Rissman: If the witness does not understand—

Trial Examiner Batten: Well, I think the form of the question might be, was Mr. Kinch—the matter of Mr. Kinch's discharge discussed at any Works Council meeting thereafter.

Mr. Lamfrom: Well, that is another matter altogether.

Trial Examiner Batten: And if so, what was said and who said it.

Q. (By Mr. Rissman) Can you answer the Examiner's question?

A. I don't remember that Mr. Kinch's discharge was ever mentioned in any subsequent Works Council meeting.

Q. Was there a representative elected to succeed Mr. Kinch?

A. I think there was.

Q. Do you know who it was?

818 A. I was just trying to recall.

Q. (By Mr. Lamfrom) Your records would show that, would they not?

A. The records would show it; I can't remember who it might have been right now.

Q. (By Mr. Rissman) Do you not know, Mr. Hydar, as a matter of fact, that after Mr. Kinch's discharge, the Works Council meetings had a more orderly and more regulated method of procedure than they had when he was there making his protests?

A. I don't think there was ever any change, any change in the character of the meetings, either before Mr. Kinch came to the Works Council or after he was discharged.

Q. (By Mr. Lamfrom) Was there any change in the character of the matters discussed?

A. I don't think there was.

Q. (By Mr. Rissman) After his discharge was there any other reclassification proposal submitted

A. What do you mean by "reclassification proposal"?

Q. Are you familiar with the proposal submitted by Mr. Kinch?

A. Oh, yes.

Q. Before his discharge?

A. Yes, sir.

Q. Was there ever a similar proposal introduced after he was discharged?

819 A. I think not.

Q. Were there ever any similar questions taken up after his discharge?

A. The reclassification, no.

Q. Or any question, of significant importance, or of similar importance to the employees?

A. Yes, I think so.

Q. You refer now to the request for an increase

A. Increases, bonuses, vacations with pay, and things of that sort.

Q. All of those matters come up—

Mr. Lamfrom: Let him finish.

Mr. Rissman: I am sorry.

The Witness: As I recall it.

Q. (By Mr. Rissman) They come up after his discharge?

A. According to my recollection, yes, sir.

Q. Were you present at the final meeting of the Works Council on April 8th, 1937?

A. I was present at the final meeting, yes.

Q. Do you recall the statements there with reference to the necessity of disbanding the Works Council?

A. Something was said to the effect that the Works Council would be disbanded.

Q. Do you recall who said that?

A. I don't recall who made the statement.

820 Q. Would your minutes have a record of that?

A. I don't remember whether that went into the minutes or not.

Q. What would be the reason for excluding it from the minutes?

A. None whatever.

Q. What?

A. There would be none except that just may have been made as a statement by someone briefly.

Q. Would not the disbandment or abandonment of the Works Council be a matter of sufficient importance to be included in the minutes?

Mr. Engelhard: Excuse me, you are not talking about disbandment, you are asking him whether any statements were made about disbandment.

Trial Examiner Batten: What was the question?

(The question was read.)

Q. (By Mr. Rissman) Or any discussion about it.

Mr. Engelhard: Now I object to that question because it is in the alternative, and it is quite important, bearing in mind the distinction between discussion or proposal to abandon and the Council's action, corporate action taken by the Council on the disbandment, those are two different things.

Mr. Rissman: What is the distinction?

821 Mr. Engelhard: How?

Mr. Rissman: What is the distinction?

Mr. Engelhard: Well, the distinction is, one requires action and the other is a mere statement that they propose or request.

Trial Examiner Batten: As I understand the question, the question is—let me ask you this question:

Q. (By Trial Examiner Batten) Was there any official action taken at the last meeting with respect now to the discontinuance of the Works Council?

A. There was not.

Q. (By Mr. Rissman) Was there any discussion as to such action?

A. There was not.

Q. Was there any discussion with reference to the necessity of abandoning the Works Council because it is now outlawed and illegal?

A. There was no discussion.

Q. Was there any statement?

A. There was a statement I think to the effect that the Works Council would be disbanded.

Q. Well, Mr. Hydar, let's not draw any distinction between "statement" and "discussion". You know what I meant.

Now, who made the statement?

A. That I don't remember.

822 Q. Was it an employee representative or a management representative?

A. I don't know.

Q. What else was said in that statement if anything, about the continuation of a representation plan?

A. Nothing that I remember.

Q. Was anything said with reference to the necessity of establishing an independent union?

A. Not that I recall.

Q. Do you recall that there was no such statement made or you don't just remember if there was?

A. I recall that there was no such statement.

Q. When was the first time that you heard the Independent Union was being organized or was going to be organized?

A. Oh, about the last week in April.

Q. What was that date?

A. About the third or last week in April.

Q. When and how did you hear about it?

A. I merely heard it as a statement from somebody, I don't remember; it was in the course of ordinary conversation.

Q. Did you ever participate in any activity in connection with the creation of a new organization to take the place of the Works Council?

A. I did not.

Q. Did you ever attend any meetings of a group of employees called for the purpose of creating a successor to the Works Council?

A. I did not.

Q. Or creating any type of organization?

A. I did not attend any meetings of any employees subsequent to the last meeting of the Works Council.

Q. What activities did you engage in subsequent to April 8th, 1937 in connection with any organization of employees?

A. None whatever.

Q. Directing your attention to April 12th, 1937, on Monday, do you recall at that time going to the home of Mr. Landrey?

A. I do.

Q. What time of day was it?

A. It was in the forenoon, I would say about eleven o'clock.

Q. Was it on personal business or business connected with The Falk Corporation?

A. It was on business connected with the company, or The Falk Corporation.

Q. Mr. Harold Landrey had formerly been a member of the Works Council?

A. Yes.

Q. What was the nature of your business with Mr. Landrey at the time of your visit to his home on April 12th, 1937?

A. I had been asked by someone to have him report at a meeting at 12:30, I believe that day.

824 Q. By whom had you been advised to ask him?

A. Some employee or former member of the Works Council, I don't remember.

Q. When you say "former employee" you mean an employee who was a former member?

A. Employee, representative.

Q. Are you in the habit of running errands for employee representatives of the Works Council?

A. I had done that, yes.

Q. Did you know what kind of meeting was being called?

A. I did not.

Q. Did you inquire?

A. No.

Q. As secretary of the Works Council, would you have known if it were a meeting of the Works Council?

A. Secretary of the Works Council, I would have known it if it were a meeting of the Works Council, yes.

Q. And this activity of yours, occupying yourself in going to Mr. Landrey's home in the middle of the morning of April 12th, 1937 was not in connection with your official duties as secretary of the Works Council?

A. Well, I would say it was because as secretary of the Works Council I had done similar things up to that time.

Q. Was this a meeting of the Works Council that was scheduled for 12:30?

825 A. Not the Works Council alone, it was to be Works Council employee representatives, past and present.

Q. Do you know the purpose of the meeting?

A. I do not.

Q. Why did you participate in rounding up the employees for that meeting if it was not an activity of the Works Council?

A. Well, I wouldn't say it wasn't an activity of the Works Council.

Q. Then was it an activity of the Works Council?

A. I suppose that it was.

Q. But it was not for a meeting of the Works Council?

A. The employee representatives in the Works Council had always been given the privilege of getting together on

occasions without any of the employer representatives present and without either the chairman or secretary being present.

Q. Why was it necessary—was it necessary for this employee to have you advise Mr. Landrey rather than this man advise him himself?

A. Because there had been times prior to that, that I had done exactly the same thing.

Q. When?

A. At times when such meetings of the Works Council, or of the employee representatives of the Works Council were held, I was asked to notify the members, and on occasions I went to their homes when they were not available at the plant for notification.

Q. On those occasions you always knew you were calling a meeting for the Works Council or meeting of employee representatives of the Works Council, did you not?

A. Yes, sir.

Q. Did you ever run errands for employee representatives of the Works Council for any other purpose other than your work in connection with the Works Council?

A. No, I don't think I ever did.

Q. How?

A. No.

Q. When you came to Mr. Landrey's home did you find him in?

A. No.

Q. Did you speak with Mrs. Landrey?

A. I did.

Q. What message did you leave with her?

A. I asked her where Mr. Landrey was and she told me where I might find him.

Q. Did you proceed to that place?

A. I did, and found that he was not there, and so I went back to the home and told her to tell him he was asked to come to that meeting.

Q. Did you state to her the purpose of the meeting?

A. I don't think I did.

827 Q. How?

A. I don't think I did; I did not know the purpose of the meeting.

Q. When you were asked by this Works Council representative to contact Mr. Landrey you said you did not inquire the purpose of asking Mr. Landrey to come to the shop?

A. I did not.

Q. Who was this individual, do you recall?

A. No, I don't.

Q. Did you contact any other persons to come to the shop for this meeting?

A. Mr. Landrey was the only one at whose home I called. The others were in the plant, and a written note was sent to them, as I remember it.

Q. Who wrote the note?

A. I believe I did.

Q. What did the note say?

A. Merely that there would be a meeting at 12:30 on that particular day.

Q. A meeting of whom?

A. I don't know as I put in the note a meeting of whom.

Q. Did it state the purpose of the meeting?

A. No, it didn't.

Q. Did any of the employees at that meeting ask you what the purpose of the meeting was?

828 A. I don't recall that they did. The notification of most of them to attend was taken care of by notes or by other methods; there were only a very few that I contacted or that I notified of it at all.

Q. When this employee representative of the Works Council asked you to notify Mr. Landrey, did you know whether or not he was calling a meeting of the C. I. O. delegation?

A. I did not know that he was calling a meeting of any delegation.

Q. Is it customary for you to invite members to meetings in the shop, the purpose of which you do not know?

A. It has been.

Q. You refer now to the meetings you have called for the Works Council?

A. Yes.

Q. Have you ever called any meetings other than those of the Works Council? That is, with the exception of this one of April 12th?

829 A. I beg your pardon, have I called any meetings other than those of the Works Council with the exception of this one of April 12th?

Q. Yes.

A. No, the Works Council meetings and this one of April 12th, which as I said, was Works Council employee representatives, were the only ones.

Q. Were there any employees at this meeting of April 12th, 1937 who were not former Works Council representatives?

A. If there were I don't know it.

Q. You don't know whether it was limited in that respect or not?

A. I don't know whether it was limited or they had others.

Q. Who asked you to prepare the notice to be send around to the men in the shop calling them to this meeting?

A. That I don't recall either. It was, I think, the same individual who asked me—in fact, I was not asked specifically to go to Mr. Landry's home.

Q. Well, you were asked to locate him.

A. I was asked to notify these men and I had reached the others in the plant, and Mr. Landry had a car of his own, or he was gone—

Q. (By Trial Examiner Batten) Where was this request made of you, where did this individual request you to do that?

A. Why, whether he came to my office or whether he 830 met me out in the shop, I don't recall.

Q. How many names did he give you to get in touch with?

A. None at all, he merely said "past and present Works Council members".

Q. Well, you haven't any recollection of where he contacted you, or who it was?

A. I have no recollection of who, or just exactly the specific place of contact, no.

Q. What time of day did he contact you?

A. That I don't know offhand.

Q. What day did he contact you with respect to April 12th, the day before or two days?

A. What was April 12th?

Mr. Rissman: That was Monday.

The Witness: Monday.

Mr. Rissman: Yes.

The Witness: I think it was the Friday previous.

Q. (By Trial Examiner Batten) In other words, that would be on the 9th, is that right?

A. Yes.

Q. April 9th?

A. Yes.

Q. Was it during working hours that he contacted you?

A. Possibly, I don't remember exactly.

Q. What hours that day were you around the plant
831 other than working hours?

A. I am always—almost always at the plant during the noon hour.

Q. You have no recollection of whether it was during working hours or noon hours?

A. I do not.

Q. You have no recollection who it was?

A. I do not know.

Q. Or where he contacted you?

A. No, I don't.

Q. Or what he said other than what you have testified to?

A. Just that.

Q. (By Mr. Rissman) It couldn't have been the noon hour on Monday, could it, because you appeared at Mr. Landry's home at about eleven o'clock?

A. No, it couldn't have been the noon hour Monday.

Q. Do you recall if the man who asked you to do these things is at the present time an officer, holds any office in the independent union of Falk Employees?

A. No, I have no recollection as to who the man was; I would not be able to tell you.

Q. None of the employees inquired from you the purpose of the meeting?

A. Not that I remember.

Q. What arrangements were made with the foremen
832 of these men so called to the meeting, to allow these men to be absent from their work?

A. I do not know because ordinarily those arrangements are made by the men directly with their foremen.

Q. Now, if these men had gone to their foremen and said, "I am going to a meeting", would they have to tell their foreman what kind of meeting it was?

A. I am sure I wouldn't know what it was, I don't know whether they would or not.

Q. Do you know if the foremen knew anything about this meeting?

A. No, I don't.

Q. About how many people were notified altogether to attend?

A. I personally had to do the notification of, oh, perhaps half a dozen at the most.

Q. And those half a dozen were from as many different departments?

A. I believe so.

Q. And those half dozen from as many different departments were under the supervision of six different foremen?

A. Not necessarily, there may not have been six different departments or as many different departments as there were men.

Q. In other words at the plant one foreman may cover 833 more than one department?

A. Yes, sir.

Q. (By Trial Examiner Batten) Do you remember the names of the men you notified besides Mr. Landry?

A. I am not sure that I do recall.

Q. Do you recall any of them?

A. You mean notified for that particular occasion?

Q. Yes.

A. I don't remember now any of them specifically; I remember Mr. Landry's instance because I had to go to his home.

Q. (By Mr. Rissman) How far is Mr. Landry's home from the plant?

A. Not very far.

Q. Well, tell us how many blocks or miles or whatever it is.

A. Oh, about, let's see—

Q. Did you walk around there?

A. 25. I drove.

Q. About 25 blocks?

A. About 25 blocks perhaps.

Q. About three miles?

A. Possibly about that.

Q. How far was this second place you visited from his home, you said you looked for him at some other place?

A. About a block and a half from his home.

834 Q. Do you recall where that place was?

A. Yes.

Q. Do you recall the name if it has a name?

A. I don't recall the name of it.

Q. Where is it located?

A. It is located on South Sixth Street.

Q. And what other?

A. I think just south of National Avenue.

Q. But you cannot recall for us the name of the man who sent you on this errand?

A. No.

Q. Do you know what occurred at this meeting?

A. I do not.

Q. Did you attend it?

A. No, I did not.

Q. Why didn't you attend?

A. I just had not been asked to come in.

Q. You attended all the Works Council meetings without any special request, did you not?

A. Yes, regular Works Council meetings and special Works Council meetings.

Q. You did not attend this meeting because you knew it was not a Works Council meeting?

A. I did not attend this meeting nor did I attend any of the caucusses, if you wish to call them that.

835 Q. I am talking about this meeting.

Mr. Engelhard: Let the witness finish.

Mr. Rissman: Read the question, please.

(The record was read.)

Q. (By Trial Examiner Batten) What is the situation with reference to caucusses?

A. That is the point I mentioned a while ago, that the Works Council employee representatives had always the privilege of meeting together in their own gatherings without the presence of any employer representatives or chairman or secretary, because I refer to that as caucusses, I did not any time attend any of those except that I was specifically requested one day to come out and answer a question for them.

Q. How did you know this meeting of April 12th was only for employees?

A. I was told it was for past and present employee representatives of the Works Council.

Q. And that was the individual that you cannot recall who told you that?

A. Yes.

Q. Now, these notices you prepared, who took those notices and distributed them out through the plant for you to these men that were to come to this meeting?

A. We have a messenger route and they were sent out on that to the foremen of these men who I suppose handed
836 them to the men.

Q. (By Mr. Rissman) At these previous caucus meetings that you speak of you knew every time there was a caucus meeting, I mean when you knew of the meeting you knew whether it was a regular meeting or a caucus?

A. If a meeting to notify the men?

Q. Yes.

A. Yes, surely.

Q. If this were a caucus meeting would former Works Council men be allowed to attend it or would it be limited to the then only present Works Council members?

A. There never was any limitation put on any of those meetings.

Q. Would a man who was not a representative of the Works Council be allowed to attend a caucus meeting?

A. Yes, and in fact they did at times.

Q. Do you recall any time when that occurred other than April 12th?

A. I do know that it occurred; I don't recall the specific instances or dates.

Q. It was a regular caucus meeting?

A. I believe so.

Q. Was that employee paid for his time away from work?

A. That I could not answer.

Q. Did you ever find out what occurred at this meeting 837 of April 12th?

A. I believe not.

Q. Aren't you sure?

A. I would say I never have found out.

Q. Have you ever found out what occurred at this meeting of April 12th?

A. No.

Q. Do you know now as you sit here in the court room what occurred at that meeting of April 12th, 1937?

A. I do not know.

Q. You never heard?

Mr. Lamfrom: You are shaking your head.

The Witness: No.

Trial Examiner Batten: Might I ask a question?

Mr. Rissman: Yes, sir.

Q. (By Trial Examiner Batten) Was the man who asked you to send out these notices and notify Mr. Landry an employee, foreman or superintendent of the company?

A. An employee.

Q. An employee, you are very certain of that?

A. I am quite certain of that, yes, sir.

Trial Examiner Batten: I think we will recess for a few minutes.

(A short recess was taken.)

Trial Examiner Batten: I believe we will proceed, gentlemen.

Q. (By Mr. Rissman) In notifying the employees to attend the meeting of April 12th, do you know if any of them were notified by telephone, any of those who were not in the plant?

A. I did not call any on the telephone.

Q. Do you know if any were called?

A. No, I don't.

Q. Did you ask anybody to telephone some of the employees?

A. I don't remember, I might have.

Q. Directing your attention to the meeting of April 8th again, were you present from the beginning to the end of that meeting, that was the last meeting of the Works Council.

A. As I remember I was not present at the very beginning. I was there and because one of the employer representatives had not come in, I left the meeting to give him a special notice that he was expected.

Q. But did the meeting open without you or were you there when the meeting was called to order?

A. I think it had just opened and then I stepped out and called him; I wouldn't be real certain.

Q. Were you there when the meeting closed?

A. Yes.

Q. What was the time of the Works Council meeting, was there any set time?

A. They started at approximately one-thirty and—

839 Q. How long did they continue?

A. Generally between three, three-thirty and three-forty-five.

Q. How long did this particular meeting last on April the 8th?

A. I don't know offhand.

Q. Do you know whether it was longer than the usual meeting or shorter or was it about the same as the ordinary?

A. I think it was just about the same. However the minutes would show that.

Q. Do you recall Mr. Harold Falk was present at the meeting?

A. I don't recall whether he was present or not, I don't think he was.

Q. Don't you recall that he was present at that meeting and he spoke to the employees on that day?

A. I don't recall he was there at that meeting, whether he was there at that meeting or not.

Q. Don't you recall that he spoke to the employees with reference to the Independent Union?

A. No.

Q. Don't you recall that one of the employee representatives at that meeting asked Mr. Falk if the workers could use the company property for a meeting in order to create and organize an independent union?

40 A. I don't recall any such question.

Q. Don't you recall that on April 8th it was decided by the men present at the Works Council meeting, that they would meet the following week for the purpose of creating an independent union?

A. No, I don't recall.

Q. Do you recall anything about the meeting of April 8th except that you were a little late in getting there?

A. That is about all.

Q. You don't recall anything else said there, what was done or who was present?

A. I do not have any recollection of the business transacted, no.

Q. Do you recall that at that meeting it was understood and decided upon by the men present that Mr. Harold Falk, the vice president of the company, was to investigate and tell the men just how far they could go in organizing an independent union?

A. No, I don't recall any such thing.

Q. Do you recall any such statement at any time?

A. I do not.

Q. Do you recall any similar statement at any time?

A. No, I don't.

Q. When did you know that the meeting of April 8th, 1937 was the last meeting of the Works Council?

41 A. Probably the day before the meeting.

Q. And knowing the day before the meeting that it was to be the last meeting, it made no particular impression upon you that it was the last meeting, did it?

A. No.

Q. How did you learn and from whom did you learn that was to be the last meeting?

A. I think it was announced that under the law the Works Councils were outlawed.

Q. Who announced that?

A. The announcement was in the paper.

Q. Don't you know that works councils and employer dominated representation plans were outlawed on July 5th, 1935 when the National Labor Relations Act became effective?

A. I do know the Act became effective quite some time before the Works Council was disbanded.

Q. What particular event occurred the day before April 8th, 1937 that led to the definite announcement that the Works Council would no longer exist?

A. The Supreme Court decision on the matter.

Q. The Supreme Court decision was announced by the Supreme Court at approximately eleven-fifteen a. m., Central Standard Time of April 12th, 1937.

Now, in view of that fact, and I take you do not doubt that is the fact, how did you know on April 7th or 6th, the 842 day—a day or two before April 8th, that the Works Council would be out of existence?

A. I don't remember that I did definitely know it; it may be that it was only spoken of as a possibility.

Q. By whom?

A. Let's see; possibly by Mr. Richard Falk.

Q. And who is Mr. Richard Falk?

A. Some member of the Falk family.

Q. He is a son of Mr. Harold Falk?

A. Yes.

Q. Would you say in anticipation of the Supreme Court decision Mr. Falk prophesied on April 6th or 7th that the Works Council would be outlawed?

A. I don't recall that it was a prophecy necessarily.

Q. But it was a statement?

A. Expressed as a possibility.

Q. Prior to April 12th, 1937, prior to the announcement by the Supreme Court of its decision upholding the validity of the National Labor Relations Act, did you ever consult with anybody or talk to anybody about the possibilities or likelihood of that decision, whether or not it would be as it was, or whether it would declare this law invalid?

A. I think in the course of conversations that probably was brought up.

Q. What were the opinions as appeared in any newspaper items, editorials and columns, or as generally announced by employers, as to what would be the decision?

A. What was the opinion expressed?

Q. Yes.

A. I don't recall that there was any definite opinion expressed as to what might possibly be the decision.

Q. Wasn't it generally known and didn't you generally know and believe that the opinion of curbstone judges was that the National Labor Relations Act was going to be declared unconstitutional?

Mr. Lamfrom: Of course some of the judges of the Circuit Court of Appeals, who are not curbstones, felt the same way, and some district judges and some very good lawyers, and four men of the Supreme Court; so the curbstone fellows have some defense here.

Mr. Rissman: I exclude from my question any duly appointed Federal judge.

The Witness: May I have the question read.

(The question was read.)

Mr. Engelhard: Now, your Honor, we object to this line of questioning; this is immaterial to the issue in this case. What he believed would happen in the Supreme Court is not material to the issue.

Trial Examiner Batten: What is your opinion as to that matter being at all relevant to the issues in this case?

844 Mr. Rissman: It is relevant to the matter in issue in this case, because the witness testified he knew the Works Council was no longer going to exist because of the fact that the Supreme Court announced—

Mr. Engelhard: Now, it may have been a perfectly good belief, and after the decision came down you happened to have him hooked on an erroneous date—

Mr. Rissman: I submit that if the witness is hooked up, he has hooked himself up.

Mr. Engelhard: He may be honestly mistaken about the dates.

Now, you are trying to hang him on a date.

Trial Examiner Batten: I don't know if the matter of being mistaken about dates has anything to do with this particular question.

I will sustain the objection as to the question. I don't see that it is material to the issue here.

Q. (By Mr. Rissman) Can you tell us now why one or two days before the last meeting of the Works Council you knew that the Works Council was going to go out of existence?

A. I qualified that statement later by saying that I possibly didn't know, but considered it as a strong possibility.

Q. And what led to your consideration of it as a strong possibility?

A. Merely talk that was being generally spread about 845 as to the possibilities of the Wagner law being held constitutional or unconstitutional.

Q. And in that discussion with Mr. Richard Falk was anything said with reference to the advisability or necessity of the employees having some other form of representation that would come within the terms of the law?

A. I don't recall that any time we discussed the necessity or advisability of any other representation plan.

Q. Or did you discuss any other representation plan in some other respect other than the advisability or necessity?

A. Well, what do you mean?

Q. Did you discuss an employee representation plan, to be more specific a union of any kind of name, in the event the Works Council did go out of existence?

A. I don't remember that we discussed it.

Q. Or talked about it?

A. A union of any kind.

Q. Something was said—

A. Except possibly the wonder was expressed as to what might transpire.

Q. What was that wonder as to what might transpire?

A. Merely that—well, just wondering what might happen if the Works Council were disbanded.

Q. And when did that wonder first develop into the independent Union of Falk Employees?

846 Mr. Lamfrom: Now, that is objected to. He is asking for a conclusion on the part of the witness.

Trial Examiner Batten: I think this witness may answer if his wonder developed into the Independent Union.

Mr. Lamfrom: There's no testimony here as to his wonder.

Trial Examiner Batten: Well, I mean by that he may answer the question if he thinks he is qualified to answer the question.

Mr. Lamfrom: I think the reporter can repeat the question.

Trial Examiner Batten: Yes, let's repeat the question, please.

(The question was read.)

The Witness: When did that wonder first develop into the Independent Union of Falk Employees?

Mr. Lamfrom: Your wonder.

The Witness: I don't know that it had anything to do with it.

Q. (By Mr. Rissman) When did you first become aware of the existence of the Independent Union of Falk Employees?

A. Oh, some time the latter part of April 1937.

Q. 1937?

A. 1937.

Q. How did that then become apparent to you?

847 A. It was pretty generally broadcast around the plant that the Independent Union had been formed.

Q. Are you familiar with the officers of that Independent Union?

A. I happen to know who some of them are.

Q. Who are some of them that you happen to know?

A. I know Mr. Wilson.

Q. What is his office?

A. He is president. And Mr. Mabis, he is secretary, I believe; either secretary or treasurer, and I happen to know one or two representatives of that union.

Q. Do you know, aside from the officers you have named, who the members of the Independent Union are?

A. Do I know who the members of the Independent Union are, all of them?

Q. Yes.

A. No.

Q. Have you any means of ever identifying the members of the Independent Union?

A. I have none whatever.

Q. Has the Independent Union ever furnished to you a list of its members?

A. Never.

Q. Do you know or have you been advised how many members the Independent Union has in the Falk Corporation?

848 A: Not that I know of.

Q. Do you know whether they have a few or many?

A. All I know is that they claimed to have a majority of employees of the Falk Corporation as members.

Q. Have you or do you know whether any other officer of the corporation has investigated that claim?

Mr. Lamfrom: We admit that we as attorneys investigated that claim.

Mr. Rissman: Please allow the witness to answer.

Trial Examiner Batten: You may answer whether you know.

The Witness: I do not know myself.

Q. (By Mr. Rissman) Do you know if there was ever any election at the plant for the purpose of determining how many employees chose the Independent Union to represent them?

Mr. Engelhard: That is a matter of record here, that there has been no election and no claim is made by us that there was an election.

Trial Examiner Batten: The question is, whether this witness knows that.

Mr. Engelhard: It seems to me wholly immaterial to ask the witness a question on something that is admitted of record here.

The Witness: There has never been any such election to my knowledge.

849 Q. (By Mr. Rissman) Do you know as personnel officer of The Falk Corporation, whether or not the Falk Corporation now recognizes the Independent Union as sole bargaining agency for collective bargaining?

A. I know that it does.

Q. How do you know that?

A. The statement has been made around the plant, it is generally known in the entire works.

Q. Have you ever had any official confirmation of that general knowledge?

A. I have not.

Q. Have you ever discussed the Independent Union with any other officers of the corporation?

A. Never.

Q. Have you ever discussed the Independent Union with the superintendents?

A. No.

Q. Or with Mr. Harold Falk?

A. No.

Q. Have you ever discussed the Independent Union with any employees of The Falk Corporation?

A. No.

Q. Have you ever spoken to any officers of the Independent Union about their organization?

A. Spoken to them about the organization?

350 Q. Or about anything else?

A. No.

Q. In connection with it?

A. Never anything with reference to the Union.

Q. Did you ever speak to them prior to its creation about its organization?

A. I did not.

Q. Did you ever speak with anybody about the advisability or necessity of having created the Independent Union?

A. No.

Q. After the meeting of April 12th, to which you summoned workers for a purpose which was unknown to you, did you ever inquire of any employees what the purpose of the meeting was?

A. I don't remember that I did.

Q. Did any of them ever tell you without your inquiring?

A. No, I don't think so.

Q. Are you sure?

A. Quite certain.

Q. Did you ever speak to any officers of the corporation, or any foremen or superintendents about that meeting?

A. No.

Mr. Lamfrom: You mean officers of The Falk Corporation or the union corporation.

Mr. Rissman: I forget that the Independent Union is also a corporation.

851 Q. (By Mr. Rissman) I referred to The Falk Corporation.

A. No, I did not.

Mr. Rissman: I thank Mr. Lamfrom for pointing out the similarity.

Mr. Lamfrom: It was a little ambiguous under the circumstances.

Q. (By Mr. Rissman) Weren't you curious about the purpose or reason for that meeting, or what transpired there?

A. I don't recall that I had any particular curiosity about it.

Q. As personnel relations man of The Falk Corporation,

did you know whether or not the activities at that meeting had to do with the welfare of the company?

A. No, I don't.

Q. Weren't you concerned and wasn't it your duty to inquire as to whether or not that meeting was for the advantage or disadvantage of the employees of the company?

A. Not necessarily.

Q. Did you have any ideas as to—any ideas of your own as to what kind of meeting was being held?

A. Did I have any idea of my own as to what kind of meeting was being held?

Q. Yes, sir.

A. You mean on April 12th?

Q. On April the 12th.

852 A. I don't think I did.

Q. Did you suspect that it might be a meeting for the purpose of creating an independent union of Falk employees?

A. I don't think I did.

Q. How long have you been personnel man of The Falk Corporation?

A. About four years.

Q. And in the four years, past four years you have participated actively in the Works Council meetings and other meetings of employees?

A. Only Works Council meetings of employees.

Q. And one occasion when you attended a caucus of employee representatives?

A. I merely stepped in there at their request and answered a question and stepped right out again.

Q. Naturally, either at the request of the employees or in performance of your duties as secretary of the Works Council, you have met with the employees?

A. Yes, sir.

Q. Do you now mean to tell us that you had no idea then, now, or at any time in between April 12th and today the purpose and nature of the meeting of April 12th?

Mr. Engelhard: Now, just a moment, it seems to me that question is taking in a lot of territory.

He says "then and now."

853 Trial Examiner Batten: I think the question to the witness—I think he has testified that he didn't know the purpose of the meeting, and I think the question is, did you know on April 12th, do you know now the purpose of the meeting of April 12th.

The Witness: Is that the question I am to answer, do I know now the purpose of the meeting of April 12th?

Trial Examiner Batten: Yes, do you?

The Witness: I know that the meeting of April 12th, or have heard, I should say I know what I have heard about it, that the meeting of April 12th was to discuss ways and means of a representation plan to substitute for the Works Council.

Q. (By Mr. Rissman) When did you first learn that?

A. Oh, quite some time subsequent to the meeting.

Q. Did you know that when you were on the stand before?

A. Yes.

Q. Why did you answer in response to the question, "That even right now I don't know the purpose of that meeting"?

Mr. Engelhard: He didn't testify that.

Mr. Rissman: I submit he did and I will have you refer to the record.

Trial Examiner Batten: Will the reporter refer back to that testimony.

Mr. Rissman: Off the record, now.

854. (Discussion off the record.)

Trial Examiner Batten: All right, we will proceed and reserve that question until tomorrow morning.

Mr. Rissman: I have no other questions except those which might arise out of the answer Mr. Hydar will give to the unanswered question.

Trial Examiner Batten: Mr. Lamfrom.

Mr. Lamfrom: I think we will use the same procedure with Mr. Hydar as we have indicated we will use as to the preceding witnesses.

Trial Examiner Batten: Mr. Goldberg.

Mr. Goldberg: No questions.

Trial Examiner Batten: Mr. Clark.

Mr. Clark: I have no questions.

Trial Examiner Batten: We will adjourn then until nine-thirty tomorrow morning.

(Whereupon, at 4:55 o'clock p. m., August 17th, 1937, an adjournment was taken until August 18th, 1937, at 9:30 o'clock a. m.)

232 *Witnesses for National Labor Relations Board.*

858 BEFORE THE NATIONAL LABOR RELATIONS BOARD.

• • • (Caption—XIIIC57 and XIIR85) • • •

Room 409 Milwaukee County Courthouse,
Milwaukee, Wisconsin,
Wednesday, August 18th, 1937.

The hearing was resumed, pursuant to adjournment, at
9:30 o'clock a. m.

Before:

James C. Batten, Trial Examiner.

Appearances:

Robert R. Rissman, and
S. G. Lippman, Attorneys, on behalf of the National
Labor Relations Board.

A. G. Goldberg, 511 Warner Building, Milwaukee, Wis-
consin, appearing for International Union of Oper-
ating Engineers, Local No. 311.

Giles F. Clark, of Alexander, Burke & Clark, 110 East
Wisconsin Street, Milwaukee, Wisconsin, appearing
for Independent Union of Falk Employees.

Lamfrom, Tighe, Engelhard & Peck, by
Mr. Leon B. Lamfrom, and
Mr. A. J. Engelhard, appearing for Falk Corporation.

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PROCEEDINGS.

Trial Examiner Batten: In accordance with the permission given by Mr. Goldberg, who represents the Operating Engineers, Mr. Goldberg authorized us to proceed if he was not here all of the time; so in accordance with that permission we will proceed.

Mr. Lamfrom: If I may say, Mr. Batten, that I was to have the answer to the intervening petition of the Engineers Union, and I arranged with Mr. Goldberg yesterday to have a short extension; in fact he said I could take as long as I wanted to, but will have it by two o'clock.

Trial Examiner Batten: That is satisfactory.

Mr. Lamfrom: At which time we will also give you a copy gratis.

Trial Examiner Batten: I think we will proceed.

Mr. Rissman: All right.

VICTOR J. HYDAR resumed as a witness by and on behalf of the National Labor Relations Board, being previously duly sworn, testified further as follows:

Mr. Rissman: At the close of yesterday's hearing, if the Examiner please, the reporter was to check up some previous questions and answers to this witness.

May we have that question and answer read.

Trial Examiner Batten: Will the reporter please read 860 the question and answer.

(The record was read as directed.)

Examination by the Chair.

Q. (By Trial Examiner Batten) You may answer that question.

A. Why did I answer in response to the first question?

Q. You were asked previously had you ever heard the purpose of the meeting of April 12th; you were also asked the question, had you ever heard of the purpose of that meeting, and to both questions you answered no.

Then later to other questions, you said you had heard of the purpose of the meeting some time—

A. Subsequent.

Q. —subsequent to the meeting.

Now, the question is, why did you previously say you had not heard, and now say that you had heard?

A. Except—well, the reason was that at that time the question had gone on, "Did I know", and possibly after the question was changed to, "Had I heard", I did not just follow that particular change.

Trial Examiner Batten: Now, will you turn back to the first question again, please, so that the witness may listen to the wording of it?

Mr. Lamfrom: And pay close attention to the question as the reporter reads it to you, so as to get the full content of it.

(The record was read as directed.)

The Witness: Well, the question there says, "Had I found out what had occurred in that meeting", and as an actual matter of fact I have not to this time found out what occurred in the meeting.

I have heard the purpose of the meeting since then, I have heard that the purpose of that meeting was to discuss ways and means of a substitute for the Works Council, but I don't know what occurred in the meeting.

Q. (By Trial Examiner Batten) Now, you were previously asked, had you heard and you said no, but you now recall—

A. Well, I have never heard what the actual proceedings of the meeting were.

Q. You are distinguishing them between what you heard and what actually occurred?

A. That is right.

Mr. Rissman: That is all.

Trial Examiner Batten: Mr. Clark.

Mr. Clark: I haven't any questions.

Trial Examiner Batten: I presume in order to preserve Mr. Goldberg's rights in this proceeding, I should reserve the right of Mr. Goldberg to question this witness as he so desires when he comes in.

Mr. Lamfrom: That is perfectly agreeable to us.

862 Trial Examiner Batten: If that is agreeable to counsel I will do so.

Mr. Lamfrom: Certainly.

Trial Examiner Batten: Are there any further questions? (No response.)

Trial Examiner Batten: You may be excused.

Mr. Lamfrom: The same method of procedure, the respondent will use with reference to Mr. Hydar.

Trial Examiner Batten: That is understood with reference to these witnesses, as I said before, technically respondent's witnesses.

Mr. Lamfrom: That is right.

(Witness excused.)

Mr. Rissman: Mr. Koch.

BERNARD KOCH, a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination.

Q. (By Mr. Rissman) Will you state your name.

A. Bernard Koch.

Q. You are also known as "Ben"?

A. Known as "Ben", yes.

Q. What is your present occupation?

A. Superintendent of the welding department.

863 Q. At the Falk Corporation?

A. At the Falk Corporation.

Mr. Lamfrom: Will you talk a little louder, Mr. Koch. It is pretty hard for us to hear you.

The Witness: All right.

Q. (By Mr. Rissman) How long have you occupied that position?

A. Since the 6th of May, 1937.

Q. Prior to that what was your work?

A. Foreman in the welding department for about, oh, two or three years.

Q. How long have you been employed by The Falk Corporation altogether?

A. Approximately ten years, but not at one straight stretch.

Q. Did you attend the meeting referred to as the foremen's banquet at a hotel downtown in Milwaukee some time in April 1937?

A. Yes.

Q. Do you recall the date of that?

A. No, I don't.

Q. Where was it held?

A. I think it was held at the Medford.

Q. Who was present? I am not interested in names, just tell us generally.

A. A group of foremen.

864 Q. About how many?

A. Approximately 15 or 20.

Q. What was the purpose of that meeting, or do you know, Mr. Koch?

A. As I understood, it was an explanation—I don't know

now whether the Severson Act or the Wagner law, one of the two.

Q. By the Severson Act you refer to the Wisconsin Labor Relations Act?

A. Yes, sir.

Q. That became effective April 16th, 1937.

Who addressed the foremen with reference to those two laws?

A. Mr. Peck, I believe his name was.

Q. An attorney associated with Mr. Lamfrom?

A. I don't know what association he had.

Mr. Lamfrom: Well, as a matter of fact he is and the record may show he is one of our firm, and we will produce him as an exhibit at any time you want to see him.

Mr. Engelhard: For identification only.

Mr. Lamfrom: We can't leave him here.

Mr. Rissman: Produce a copy.

Mr. Lamfrom: Yes.

Q. (By Mr. Rissman) Do you recall some of the things he told the foremen with reference to what you could or could not do in connection with employee relations, labor relations?

A. Yes, I recall one thing. I think Mr. Peck told us that as a foreman, why, it seemed as though we were not to be allowed to voice any opinion on the labor situation, or these acts or labor unions.

Q. Were there questions at that time as to just what extent a foreman could talk to an employee about the labor situation, do you recall?

A. I don't remember much about that meeting; that was about the line of it in my mind.

Q. There were some questions, just to refresh your mind, as to whether a foreman was on the street and also the employee—

A. Yes.

Q. —was away from the plant, whether or not they could talk about the unions?

A. Yes, there were questions.

Q. Do you recall what the answers to those questions were?

A. Mr. Peck's answers?

Q. Yes.

A. In the discussion we had there—

Q. Mr. Peck's answers.

A. I am pretty sure that Mr. Peck said that even on the street, I guess, I think he advised us not to say anything.

Q. In other words, Mr. Peck's advice in a general way 866 was that the foremen should keep their hands off of all union affairs?

A. Right.

Q. If the men wanted to belong to a union that was their affair and if they spoke to you about it, you were not to discuss it with them?

A. Yes, sir.

Q. Was that the policy generally followed by the men before that meeting with Mr. Peck?

Mr. Lamfrom: Now, by the men.

Mr. Rissman: By the foremen.

Mr. Lamfrom: Yes, the foremen.

Mr. Rissman: The foremen.

Mr. Lamfrom: I see.

Mr. Engelhard: That is, if he knows.

Mr. Rissman: Naturally.

The Witness: Well, I don't think that it come up much before that, to my knowledge, in the shop.

Q. (By Mr. Rissman) While you were foreman was it your practice to keep your hands off—to keep a hands-off policy with reference to labor matters before Mr. Peck's address?

A. What do you mean, a hands-off policy?

Q. The same thing Mr. Peck instructed you to follow.

A. No, I did not practice that.

867 Q. What was your policy and practice as a foreman with reference to labor matters in the shop?

A. Well, I expressed myself freely at all times, just how I happened to feel.

Q. To whom did you express yourself?

A. Any one or every one.

Q. To the employees?

A. To the employees.

Q. Employees who worked under your supervision?

A. Yes, sir.

Q. In the foundry?

A. Right.

Q. What were some of the opinions you expressed to those employees with reference to labor unions?

Trial Examiner Batten: Mr. Rissman, I wonder if you will have him place the time.

The Witness: I—

Mr. Rissman: The witness said he didn't remember the date of the meeting. You have that, that it was some time in

April, I believe, following the Supreme Court decision on the National Labor Relations Act.

Trial Examiner Batten: Then I take it he is referring now to statements he made prior—

Mr. Rissman: Before that meeting.

Trial Examiner Batten: Prior to the meeting at which 868 Mr. Peck spoke,

Mr. Rissman: Yes, but within two or three months before that time.

The Witness: And that has been my policy always, to say what I thought.

Q. (By Mr. Rissman) What were some of the things you said to the men at that time about labor unions?

Mr. Engelhard: Now, just a moment, at what time? You mean over a period of ten years?

Q. (By Mr. Rissman) Over a period of four months preceding the meeting with Mr. Peck?

A. I don't remember anything of particular significance that I said before that time.

Q. Did you express your opinion on labor unions?

A. Yes.

Q. What is (or was your opinion on labor unions at the time you expressed them?

Mr. Lamfrom: Just a minute, I object to the form of that.

I think he may testify as to what he expressed his opinion to be, because that is, after all, the only thing material here.

Q. (By Trial Examiner Batten) Do you recall any particular instance or any particular employee to whom you expressed an opinion?

869 A. That is, prior to this meeting?

Q. Yes.

A. No, I don't recall any that would be prior to that meeting, or as to dates, I don't have any in mind.

Q. Well, you have testified you did freely express your opinions?

A. Yes.

Q. Now, do you recall that on some occasions you have expressed an opinion with respect to unions in the shop?

A. Well, I have often expressed the opinion I did not like the way the unions were run, but not a particular instance.

Q. Well, have you expressed those opinions in the shop to employees?

A. Yes.

Q. On several occasions?

A. On several occasions.

Q. When you told them that you did not like the way the unions were run and so forth, tell me a little more detail of what you said about the operations you did not like.

A. Well, I believe I have said that, I have said a lot of things.

Q. Well, tell us what you said?

A. Well, I have said that I did not like the idea of somebody making a living off of the union, that there should be somebody in each—well, at least the workmen that work 870 in the trade should hold an office in the union.

Q. What other opinions have you expressed, you said there were several of them.

Now, tell us some.

A. Well, they were all in the course of the discussions, I have expressed the opinion that whatever dues a man paid to the union, just came another drain on the workman's pocket, for which in my opinion he did not get an adequate return.

Q. Have you ever expressed any opinion as to the relative merits of an independent union as opposed to one which was affiliated with some national organization?

A. Yes, I believe I have.

Q. What did you say?

A. Well, just along the line, just a few remarks, that as far as the dues, and so forth, in the smaller organization would be smaller and would stay in that organization.

Q. Would you be eligible for membership in a union?

A. No.

Q. You wouldn't have to pay any dues?

A. No.

Q. (By Mr. Rissman) Mr. Koch, would you say that the opinions you expressed about unions were generally in favor of unions or opposed to unions?

A. Opposed.

871 Q. Did you express any opinions about the Amalgamated Association of Iron, Steel and Tin Workers Union, or as it is generally branded, the C. I. O.?

A. Yes.

Q. Were those opinions in favor of it or opposed to it?

A. Opposed to it.

Q. And the employees who work under you generally knew that you, as a foreman, opposed the union?

A. Yes.

Q. Do you know Louis Meihdle?

A. Yes.

Q. Who is Louis Meindle?

A. A fellow who works for me in the chipping room.

Q. How long have you known him?

A. Four years at least.

Q. Do you know whether or not he is a member of a labor union?

A. I know he is a member.

Q. Of which union?

A. The C. I. O.

Q. Have you ever expressed an opinion to Louis Meindle?

A. Yes.

Q. What have you said to him about the C. I. O.?

A. I asked him what benefits he expected to derive through an organization like that, over and above what he was getting.

Q. Did you suggest to him that if he wanted to join a union it would be better for him to join the Independent Union?

A. I may have.

Q. Did you suggest to him that if he joined the Independent Union there was more to be gained because their dues were not as great and it was a union just for the Falk Company, and they had the approval of the Falk Company and various foremen?

A. Not just that way, no.

Q. In just what way, tell us in your own way?

A. I told Mr. Meindle that through membership in the C. I. O. he would be losing more freedom that he still has, — well, in my opinion that he would be ordered from outsiders to do certain things, whereas if he belonged to some other union that would be controlled, he would have a more controlling voice in the Independent Union than he would have in the C. I. O.

Q. When you spoke of the independent union you had in mind specifically the Independent Union of Falk Employees?

A. No.

Q. Well, was there any other independent union in existence at this plant?

A. Well, to my knowledge there were several of them started, that I heard about.

873 Q. At The Falk Corporation?

A. Yes, several types; there were several groups that had different ideas.

Q. Between March and June, 1937?

A. Yes.

Q. How many organizations existed?

A. To my knowledge three.

Q. What are the three?

A. The American Federation of Labor, the C. I. O., and the Independent Union.

Q. So that the only independent union at the present time is the Independent Union of Falk Employees?

A. Yes, to my knowledge.

Q. When was the first time you were instructed by the superintendent or by Mr. Falk that the foremen were to not express any opinions on union affairs and union activities?

A. I believe it was shortly after the meeting I spoke to Mr. Falk about it.

Q. After what meeting?

A. After the meeting Mr. Peck was at.

Q. Yes.

A. And I asked him if we were to take it for granted that we would not express an opinion even if we were asked.

Q. Yes.

A. And he told me that was right, that I should keep 874 my fingers out of it entirely.

Q. You naturally have complied with that instruction all the time since then?

A. No.

Q. Then you have expressed opinions about labor unions?

A. Yes.

Q. Since that time?

A. Yes, sir.

Q. In violation of your instructions from Mr. Falk?

A. Yes.

Q. And the opinions you have expressed in violation of your instructions are the same as the opinion expressed before the meeting with Mr. Peck?

A. Yes.

Q. Are you on the night gang or the day gang?

A. Day gang.

Q. On April 12th, 1937 was anybody from your department—pardon me?

A. I might have said on the night gang. You see, I did not go steady on days until the 6th of May.

Q. So you changed—

A. Before that time I was changing four weeks on and four weeks off, so on the dates I wouldn't know—

Q. Were you ever on the day gang in April, in the month of April?

875. A. I don't think so, because the night of that meeting I worked a while and then went down to that meeting. There might have been two or three days at the beginning or end, but I think during the month of April I was on the night shift.

Trial Examiner Batten: Mr. Rissman, did you ever secure the date of that meeting?

Mr. Lamfrom: April 22nd or 23rd.

Mr. Engelhard: 22nd.

Mr. Lamfrom: 22nd, that is it.

Mr. Rissman: The 22nd?

Mr. Lamfrom: Yes.

Mr. Rissman: Thank you.

Mr. Lamfrom: We just had it checked up.

Q. (By Mr. Rissman) That was April 22nd, that meeting. Was that the same day that you had this conversation with Louis Meindle about what he was getting out of the union?

A. The 22nd?

Q. The same day after the meeting at which Mr. Peck spoke?

A. No, I did not get back to the office that night as I remember.

Q. But you said you were at the shop before you went to the meeting.

A. Yes.

Mr. Rissman: That is all.

876

Cross-Examination.

Q. (By Mr. Lamfrom) Now, these opinions that you expressed from time to time to the men were they your own personal opinions?

A. Absolutely.

Q. Had you ever been instructed by any officers of The Falk Corporation to voice your opinions as to the relative merits of labor unions to the men?

A. On the contrary I was instructed not to, to keep my fingers out, I think it was twice.

Q. When was the first time you were told to keep your fingers out of it?

A. To my knowledge the first time that the thing come

up was probably the day before the meeting when Mr. Peck recited.

Q. Who told you?

A. Mr. Falk.

Q. Which Mr. Falk?

A. Mr. H. S. Falk.

Q. Mr. Harold Falk?

A. Mr. Harold Falk.

Q. What was the occasion that led to his telling you to stop it? I imagine that was what he told you, wasn't it?

A. Yes, I went and asked him and told him there was a lot of excitement, a lot of running around signing up, and so forth, and I asked him what I should do about it. 877 In spite of the orders I issued not to do it, it was still being kept up, and I asked him if he thought it was worthwhile to do anything further because of that.

Q. And what did you say?

A. He says, "No, try to stop it as much as you can, and go on and let it go at that."

Q. You mean with reference to that, the signing of applications on company time?

A. The signing up of applications on company time.

Q. Now, at the time you went to Mr. Falk, which you have just testified to, was there a disturbance generally in the plant with reference to labor matters?

A. Yes.

Q. Now, describe for the Examiner just what the nature of that disturbance was and how it affected production work in the plant?

Mr. Rissman: I object to the question, if the Examiner please; we are not concerned here with any disturbance in the plant; we are concerned here with the violation of law as practiced by the foremen at the plant.

Trial Examiner Batten: I presume, Mr. Lamfrom, you refer to the disturbance and tense feeling which is created in a plant at a time when you have three or four organizations soliciting memberships and signing petitions and 878 talking about unions?

Mr. Lamfrom. Yes.

Trial Examiner Batten: Well, I think that without passing upon that, as to how material that may be, I might say that I think the Trial Examiner is fully acquainted with what occurs in these shops when you have three or four

organizations soliciting members, an intense feeling which develops as the result of it.

Mr. Lamfrom: I naturally would assume that you are familiar with that, but whether you are familiar with the reaction of that upon a loyal and competent foreman who desired to get his work out and the stimulation to him from that kind of conduct to make every effort he possibly can use legitimately to keep his production moving, whether you are familiar with that, Mr. Examiner, I don't know.

Trial Examiner Batten: I think it is well, Mr. Lamfrom, to have this witness testify to what effect that disturbance and so forth in the shop had upon him.

Mr. Lamfrom: That is what I mean.

Trial Examiner Batten: And what action he took to try to remedy the situation.

Mr. Lamfrom: That is what I am after.

The Witness: Well, in one corner there were two or three men arguing, arguing in some corner, and probably one for one side and probably one for another, and a man working in the chipping room would be in a different department and a man working in the foundry would be over in the machine shop, and the machine shop in the foundry, or vice versa.

Q. (By Mr. Lamfrom) How long did that condition continue?

A. For quite a period of time.

Q. Well, in a general way for how long a time?

A. I would say it took about three weeks before that thing simmered down.

Q. How many men do you have under you?

A. Since May 6th I have 60, 60 to 65.

Q. And before the 6th of May?

A. Before the 6th of May I had around 22 or 24.

Q. Now, this running around of the men in an attempt to get members for these various organizations, as it came under your observation, what effect did that have on you as foreman in the Falk Corporation?

A. Well, it spoiled my production by about 30 per cent.

Q. Do you feel that in relation to your duties as foreman, that you should use every effort you possibly could use to get production moving again?

A. Yes, I felt that way.

Q. And did you use such efforts?

A. Yes.

Q. And now describe the effort that you used to get a return of normalcy in the Falk plant in that department which you operated?

880 A. Well, I talked to the fellows, told them this union business was a whole lot like religion, they were not going to get anywhere arguing it during labor hours; that they—that we had a kind of young department and unless we kept up production and showed a fair return, why, we would not get results and the improvement that we all wanted in the department, if we kept up that line of talk.

Q. Did you in your talks with the men, which talks you have just indicated, discriminate between members of the C. I. O. as you knew them to be members, and members of the Independent Union as you knew them to be members?

A. No.

Q. Wasn't your primary interest that all of the men should drop taking off time from their work for these talks and gatherings and get to work?

A. Right.

Q. Did you ever obtain the views that you have on labor unions, that you have expressed here on the witness stand, from any officials of The Falk Corporation?

A. No.

Mr. Rissman: I object. It is entirely immaterial where he got them, as long as he expressed them in the plant.

Trial Examiner Batten: Well, I think it is proper for him to answer that question as to where he acquired 881 them. I don't know that it is material where he acquired them.

Mr. Rissman: They may be his own idea.

Trial Examiner Batten: I believe it is material whether he acquired them from the Falk officials.

Mr. Lamfrom: Yes.

The Witness: I never acquired any ideas from the Falk officials in regard to labor unions.

Trial Examiner Batten: Mr. Lamfrom, may I ask a question?

Mr. Lamfrom: Certainly.

Q. (By Trial Examiner Batten) Are you familiar with the letter which Mr. Falk sent out to the powerhouse employees in which he stated "We are not in favor of a union"?

A. I never saw it.

Q. You never heard of it?

A. I never heard of it. I heard of it yesterday, I believe, was the first time.

Q. Do you know what the policy of the company is with respect to unions?

A. No.

Q. You never heard of it?

A. No.

Q. You don't know what Mr. Falk's views are with respect to unions?

A. No, I don't.

882 Q. You never read about it in the paper?

A. Except that I asked Mr. Falk one thing in respect—I think it was respecting closed shop, at the time there was a notice in the paper about Allis Chalmers; I asked him when it is going to be the same thing here, and he told me as far as he can and as far as it was under control, he would try to keep an open shop.

Mr. Lamfrom: You may take the witness.

Redirect Examination.

Q. (By Mr. Rissman) Don't you know that all the time you were foreman at this plant, that you knew that they did not favor labor organizations?

A. No, I don't know that; I have serious reason to doubt it.

Q. Would it surprise you to learn that now?

A. I still don't think so.

Q. During the time of the so-called disturbances in the plant which you testified about, were the disturbances created by both the C. I. O. men and Independent Union men?

A. Yes.

Q. During the time that you expressed your opinions in favor of unions, or in disfavor of them, did you ever express an opinion that would lead the men to believe you did not favor the Independent Union?

A. Yes, several times.

883 Q. Did you ever express an opinion that would lead them to believe that you favored the C. I. O.

A. No.

Q. You never did that?

A. No.

Q. Did you ever express any opinions that would lead them to believe that you favored the Independent Union?

A. No, I didn't.

Q. How about the conversation with Mr. Meindle?

A. It goes no further than as I said, I believed a small organization was better for the workmen than a large international one.

Q. Then you did express an opinion in favor of the Independent Union?

A. Not any particular one.

Q. You didn't mention it by name?

A. How?

Q. You didn't mention it by name?

A. I mean I always, a small organization, I said was a lot better than a large organization.

Q. Do you know Mr. Harold Landry?

A. Yes, sir.

Q. He is one of the employees working under you?

A. No.

Q. He is one of the employees in the plant?

884 A. He is one of the employees.

Q. Do you recall a conversation with Mr. Landry about this same period, when you said to him, "There is only one fellow in our department who is a member of the C. I. O. and I will soon talk him out of it?"

A. I remember a conversation of that nature, but not those words.

Q. Just what were the words?

A. I believe Mr. Landry told me he had about 90 per cent of the fellows signed up in the C. I. O.

Q. Yes.

A. And I think I told Mr. Landry at this time—do you want the exact conversation?

Q. Yes.

A. As far as I remember.

Q. Tell us.

A. Well, it was rumored in the plant, the machine shop men, there were not that many, and I says, "If there is one why, he would still come through and get out of it."

Q. Did you contemplate at that time taking any steps to bring about the result you wanted?

A. No.

Q. Do you know if they got out of it?

A. No, I think I have a couple more now than I had at that time.

885 Q. More C. I. O. men?

A. More C. I. O. men.

Q. You are not doing such a good job, then?

A. Well, that wasn't the point. I think Mr. Meindle and Mr. Landry both have heard me express the opinion that it did not make much difference to me what union they belonged to, I just did not like unions.

Q. You don't like any kind of a union?

A. No, I don't believe in them.

Q. And you have told that to the men, too?

A. Yes.

Mr. Rissman: That is all.

Recross Examination.

Q. (By Mr. Engelhard) Mr. Koch, do you pal around with many men in your department?

A. Yes, sir.

Q. You bowl with them?

A. Yes, sir.

Q. And drink a glass of beer with them?

A. Yes, and Scotch, too.

Q. Is it not a fact that you and your men enjoy an argument about any question in the world?

A. Yes, sir.

Q. That is before the world?

A. Yes, sir.

886 Q. You discuss everything probably except religion?

A. I believe we even discuss religion once in a while.

Q. Now, is it customary for the men to discuss what is going in the country, like the C. I. O., the A. F. of L., or various newspaper reports?

A. Yes.

Q. And in connection with those you express your opinions to each other?

A. Yes, sir.

Q. What you call a friendly argument?

A. Yes, we have quite a few of those, not only as respects unions, but politics, or sports and everything else.

Q. You have known the men that you are with for years?

A. Yes.

Q. Is there any feeling of unfriendliness between any men in your department and yourself?

A. Not that I know of.

Q. You talk to each other rather freely, do you not?

A. Yes, sir.

Q. You swear at each other once in a while in a friendly manner?

A. Yes, friendly.

Q. And at each other?

A. Yes, sir.

Q. And nobody feels insulted because that occurs?

887 A. No, I think in my department down there we have as friendly a feeling as there is in any shop in the world.

Q. Is there any unfriendly feeling between you and Louis Meindle?

A. No.

Q. You are pals, aren't you?

A. Yes.

Q. Did you ever bowl with him?

A. No, I didn't bowl with Louis Meindle, but I drink beer with him.

Mr. Rissman: I will concede for the record that they are one big happy family.

Mr. Engelhard: I am not asking him just to ask questions.

Q. (By Mr. Engelhard) When you say you expressed your personal opinion you mean by that you figured you had the right to express your personal opinion as a matter of freedom of speech.

A. Yes, I still feel that way.

Q. You did it even after you were warned not to do it?

A. Yes, sir.

Q. Is that your feeling, that freedom of expression is greater than the right of anybody to curtail it?

A. Will you repeat that?

Mr. Engelhard: Read the question, please.

888 (The question was read.)

A. Yes.

Mr. Rissman: I object to that question.

Trial Examiner Batten: Well, he has answered the question.

Q. (By Mr. Engelhard) Now, when you had this discussion with Louis Meindle, who started it?

A. That would be hard to recall. Louis Meindle and I have had quite a few discussions, and who started them—one of them started, I think, because Louis asked me to come down to one of the meetings and see just what the C. I. O.

was like and get acquainted with it. I think he invited me down there to get acquainted with the C. I. O. and see what it was like.

Q. Was that when you had a friendly debate with him?

A. Yes.

Q. (By Trial Examiner Batten) What did you say about going down to the meeting?

A. Well, I thought the opinions I had expressed, in a mob like that it would not be quite safe.

Q. Even if some of them were your friends?

A. Well, there wouldn't be enough of them, just a few fellows in a crowd like that.

Q. (By Mr. Rissman) That was because those opinions were unfavorable to the union?

889 A. Yes.

Q. (By Mr. Engelhard) Was it your intention to in any way influence Louis Meindle in his right to belong to the C. I. O. or the A. F. of L.?

A. No, I have told him several times the big objection, I have told Louis Meindle several times, I had to the C. I. O. or any of those big organizations was that, they went on strike for a closed shop and would not allow a man who did not believe the way they did the right to work without joining the organization.

That is the big thing I still have against those organizations.

Q. And that discussion was a discussion that simply arose out of your approaching Louis Meindle and trying to preach to him?

A. No, I talked to the men several times during the day. I suppose, when I was foreman about this thing, and that other things would come up.

Q. Did you buttonhole the men?

A. No, I didn't buttonhole the men, I don't ever buttonhole the men, but we do stop and talk when I get around in the shop to see what they are doing, I ask them where they were last night and things like that.

Q. Do they ever kid you about matters of that kind?

A. Yes, sir.

890 Q. And you kid them?

A. Yes, sir.

Q. And in the course of the kidding you express your opinions and they express their opinions?

A. Yes.

Q. Is that correct?

A. Yes, I have expressed the opinion to Louis Meindle that even though I did not like the C. I. O., he would never have to worry about his affiliation with the C. I. O. in anyway interfering with his wages, promotion or anything in the plant, that as long as he did his work, that was all I was interested in.

Q. When was the last time you had an argument with any of the men regarding these matters?

A. Last night.

Q. And I suppose you will perhaps have one tomorrow?

A. Probably this afternoon.

Q. In other words, that is a part of the life—

A. Yes.

Q. —that is your life and their lives, is that correct?

A. Yes.

Q. You fellows don't go around carrying chips on your shoulders?

A. Not at all.

Q. You have friendly debates?

894 A. Right.

Q. And there is a distinct difference of opinion, is there not?

A. Yes, sir.

Q. Between you and your men?

A. Yes.

Q. And among the men, too?

A. Yes, sir.

Q. You get some men that agree with you and some men disagree?

A. Right.

Q. But there is no hard feeling as a result?

A. No.

Mr. Engelhard: That is all.

Q. (By Trial Examiner Batten) Mr. Koch, this friendly feeling that exists in your department has been there for some time, has it?

A. Yes, it has been there for quite a while.

Q. And I presume that you are interested in building that up and continuing such feeling?

A. I have tried hard to promote that feeling we have had from the beginning, and very little of the groups have tried as hard as us to get together.

Q. Don't you think your views with respect to unions would have more influence or more cause of friendliness
892 with them than strangers?

A. Yes, I believe they would.

Q. So that this friendly feeling that exists in your department would tend to have the men more readily accept your views than if they were strangers to you, is that right?

A. No, I don't think so; I think that friendly feeling is a matter of the men offering more opposition to it, to whatever argument I would make than otherwise, because they felt at liberty to say what they felt and what they thought.

Without that friendly feeling I don't think they would have felt free to express themselves.

Trial Examiner Batten: That is all I have.

Q. (By Mr. Lamfrom) In other words you give the men every opportunity through friendly contact with them in and out of the shop to express their opinions and you express your opinions?

A. Yes, sir.

Redirect Examination.

Q. (By Mr. Rissman) This argument last night, was that about union affairs?

A. Yes. With Mr. Landry?

Q. With Mr. Landry.

A. Yes.

Q. Did you express some more of your opinions?
893 A. Well, just repeated them.

Q. If the C. I. O. obtains a majority or has a majority of the members in the plant and as a result of that majority, the company should enter into a closed shop agreement with them, that would be a serious matter in your opinion?

A. Yes, I believe that would be serious enough for me to go out and look for another job.

Q. You couldn't forget about that then?

A. Not any more.

Mr. Rissman: That is all.

Recross Examination.

Q. (By Mr. Lamfrom) Why would that affect you that way?

A. Because to my mind a closed shop is absolutely unfair.

Q. Why do you think a closed shop is absolutely unfair?

A. Well, I think that the union, or to belong to the union is not proper. You should be—well, we get faith like religion, you should believe in it or you don't, and I do not think an—I do not think organized groups should impose their thoughts on any individual in a plant purely for the right to work.

Q. That is, with respect to this particular situation that we are examining into, if I get you right, your opinion is that if the C. I. O. obtained a majority here and represented the productive unit or other units included, as bargaining agent, that would lead eventually to the imposition 894 of a closed shop contract on The Falk Corporation?

A. To my mind they would attempt that the first thing.

Q. And as you have indicated you are opposed to the closed shop. Is that in your opinion an infringement upon the right and liberty of an individual to join or not to join a union?

A. Right.

Q. In respect to any particular employment he goes into?

A. Right.

Q. (By Trial Examiner Batten) Mr. Koch, you would not be eligible for membership in a union?

A. I have been and might be again.

Q. Would you as foreman?

A. Right now, no.

Q. Why are you solicitous about these men who have the right when you don't have the right?

A. Well, I can tell you, it so happens as, a kid out in California I had a job for three days and the union come around and demanded a \$50 initiation fee, the Native Sons of California, something like that, and since then I have thought those kind of things were absolutely unfair. I think that was 12, 13 or 14 years, something like that, that I had my first experience with organized labor.

Trial Examiner Batten: Mr. Clark, have you any questions?

895 Mr. Clark: No.

Trial Examiner Batten: Are there any further questions of the witness?

(No response.)

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Trial Examiner Batten: Mr. Koch, I want to say I admire your frankness and you are to be complimented upon expressing your own opinions.

The Witness: Thank you.

Mr. Lamfrom: I think if we had more of this in the land we would arrive at a solution of those problems much more quickly.

Mr. Engelhard: Mr. Examiner, I will say that if there should be some further testimony offered later that might require Mr. Koch, we will recall him, but up to this point we feel we are through.

Trial Examiner Batten: Well, if you so desire you may recall him then.

That is all.

(Witness excused.)

Mr. Rissman: Mr. Cain.

ARTHUR CAIN a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination.

896 Q. (By Mr. Rissman) State your name.

A. Arthur Cain.

Mr. Lamfrom: I didn't get that.

The Witness: Cain.

Mr. Lamfrom: Mr. Rissman was talking about "Payne".

The Witness: C-a-i-n.

Mr. Rissman: I sympathize with you.

Mr. Lamfrom: I have no "pain", I thought it was you.

Q. (By Mr. Rissman) How long have you been employed by The Falk Corporation?

A. About 14 or 15 years.

Q. What is your present work?

A. General foreman, night, in the foundry.

Q. (By Mr. Lamfrom) Were you up late last night?

A. I worked last night.

Mr. Lamfrom: I see, I thought so.

Q. (By Mr. Engelhard) Are you ordinarily asleep at this time?

A. Yes.

Q. (By Mr. Rissman) You were given the privilege of appearing as a witness this afternoon?

A. Yes.

Q. But you chose this morning, didn't you?

A. Yes, sir.

Mr. Lamfrom: Well, the reason probably is obvious, 897 that he wanted to get through with it.

Mr. Engelhard: We may curtail our cross examination because the man must go home and sleep.

Q. (By Mr. Rissman) Did you hear the testimony of the preceding witness, Mr. Koch?

A. Just the last part.

Q. Did you hear his testimony with reference to the banquet at the Medford Hotel on April 22nd?

A. No, I didn't.

Mr. Lamfrom: May I interject this, Mr. Rissman: How did that happen to be designated "banquet"?

Q. (By Mr. Rissman) Was it a dinner or just a meeting of the foremen at the Medford Hotel?

A. It was a meeting, I imagine a dinner.

Mr. Lamfrom: Yes, a dinner.

Trial Examiner Batten: The only difference I suppose was, how much it cost.

Mr. Lamfrom: Well, according to that this was distinctly a dinner and not a banquet.

Mr. Rissman: Since it was run by the company it was probably a banquet.

Q. (By Mr. Rissman) At that meeting do you recall the speech by Mr. Peck, the attorney?

A. Parts of it.

Q. Can you tell us very briefly in a general way 898 what he was trying to tell the men, the foremen who were present?

A. He was trying to explain the Wagner Act.

Q. The limitations upon the foremen and what they could do and could not do in the shop?

A. Yes, sir.

Q. Regarding unions and union affairs?

A. Yes.

Q. Prior to the time of this meeting at the Medford Hotel what was your practice as foreman with relation to union affairs and union activities in the shop?

A. The same as I have.

Q. What was that?

A. Well, I am friendly with the men and I express my opinions quite freely. I don't think that changed my opinion down there any.

Q. You express your opinion with reference to unions?

A. Sometimes.

Q. As you have expressed them have those opinions been in favor of unions or opposed to unions?

A. Opposed.

Q. You have expressed those opinions to men who work under you?

A. Yes, some.

Q. As foreman you have the right to hire and discharge the employees under you?

899 A. Yes, sir.

Q. At least you do?

A. Yes, I could, I could fire them, I guess.

Q. You have fired men at different times?

A. One, I guess, since I have been there.

Q. (By Mr. Lamfrom) How many years is that?

A. I have been in that shop about nine years.

Mr. Rissman: Good men work under you.

Mr. Lamfrom: A good foreman under which the men work.

Q. (By Mr. Rissman) Have you expressed any opinions with reference to the Independent Union of Falk Employees?

A. I probably have, probably I have.

Q. Can you tell us what those opinions were as you expressed them?

Mr. Engelhard: Now, just a minute. It seems to me that ought to be limited as to who he expressed the opinion to.

Mr. Rissman: He may tell us to whom if he knows.

Mr. Engelhard: Well, you asked him if he ever expressed any opinion.

Trial Examiner Batten: I think he has stated that he has expressed an opinion. He may testify now as to what opinion he expressed, then he may explain to whom he expressed the opinion.

What opinion did you express?

900 The Witness: Why, the opinion I have expressed, that I thought the Independent Union would be better for the men in our shop.

Q. (By Mr. Rissman) To whom did you express that opinion?

A. Oh, several.

Q. Several of the employees working under you?

A. Why, I imagine Louis Meindle for one.

Q. And other employees working under you?

A. Yes, I think I have.

Q. Their names are not important.

Do you recall Mr. Kinch—pardon me.

How long have you been working nights?

A. All the while.

Q. You were working nights during the month of April?

A. Yes.

Q. Do you recall on the night of April 9th, 1937, Friday night, I believe, you appointed two men in your department to go to a meeting at twelve-thirty the following Monday, April 12th, 1937?

A. Yes.

Q. Who asked you to appoint those men?

A. I think one of the Works Council men said they were to have a meeting and wanted a couple of men to go with him.

Q. The men you appointed, did they occupy any position on the Works Council?

901 A. No, they didn't.

Q. They were just employees?

A. Just employees.

Q. Did you know what kind of a meeting they were going to have?

A. No, they said they were going to have—they were going to get together and try to have a meeting, to form some kind of a representation, as I understood.

Q. And you appointed two men in your departments to attend that meeting?

A. To go along as guests with the Works Council man.

Q. Who were those two men?

A. A man by the name of Russetti and one by the name of Gillette.

Q. Do you know if they went to the meeting?

A. Yes, they did.

Q. How do you know that?

A. They were paid for the meeting and later deducted.

Q. Why were they deducted?

A. Well, due to some law, I guess, the company wasn't allowed to pay them, so they billed it out later.

Q. The company knew that it was not allowed to contribute any moneys to men forming a union, so they deducted the money later, on?

A. Well, they learned that later, I imagine.

902 Mr. Lamfrom: If there is any mystery concerning that deduction I will clear that up for you.

Q. (By Trial Examiner Batten) Who was the Works Council man that requested you to send two additional?

A. William Neal.

Q. William Neal?

A. Yes, sir.

Q. Is he the man who told you the purpose of the meeting?

A. I don't believe he did regarding the purpose of the meeting, it was just that they were going to have a meeting.

Q. (By Mr. Rissman) Did you take the matter up with any person in a superior position to you?

A. Yes, my superintendent knew of it.

Q. Who was your superintendent?

A. Mr. Buuck.

Q. What conversation did you and Mr. Buuck have as to this meeting?

A. Why, he goes home a little early and he told me to appoint anybody that would be satisfactory to Bill Neal or myself.

Q. The men you appointed, were they satisfactory to you?

A. Yes, it didn't make any difference to us.

Q. They were satisfactory to Bill Neal?

A. Yes.

Mr. Lamfrom: I started to make a statement a minute
903 ago when Mr. Rissman continued with the question, that with reference to the deduction of pay to men who attended meetings on company premises and company time, when I was informed of that I instructed The Falk Corporation that there was doubt as to the legality of it and to make deductions for such payments.

Mr. Rissman: You recognized they had violated the law and you wanted to make amends for it?

Mr. Lamfrom: I did not recognize anything, I was giving my opinion.

Mr. Rissman: And in your opinion they had violated the law?

Mr. Lamfrom: I am not on the witness stand.

Trial Examiner Batten: I presume that very incident in connection with having paid all the men who had appeared at the meeting and then later deducting it, I think that is pretty clear in the record.

Mr. Lamfrom: Yes, I wanted to give the Examiner the source of the reason for the deduction.

The Witness: It was natural for them to pay the men; they always had paid the men for their time.

Mr. Lamfrom: Yes.

Q. (By Mr. Rissman) Then why was it deducted this time, do you know?

A. Just as I said, they found out that there was a new 904 law that went into effect.

Mr. Lamfrom: You know our Wisconsin Labor Relations Act with its sharpened teeth over and above the Wagner law, was passed at the legislature in session at that time.

Mr. Engelhard: It went into effect on the 15th of April.

(Discussion off the record, as previously directed.)

Q. (By Mr. Rissman) With reference to your expression of opinions to different men around the plant have you ever expressed any opinion of various officers of the C. I. O.

A. To various officers?

Q. Of various officers to men in the plant.

A. I may have, some of my dislikes, expressed them in a friendly manner which I thought was personal conversation.

Q. There is no contention, Mr. Cain, that your expression of opinion was anything but friendly, the manner of your expression, but your expressions of opinions were in disapproval of the conduct of character of the leaders of the C. I. O., was it not?

A. There is only one I know.

Q. One leader?

Mr. Engelhard: Will you talk a little louder, Mr. Cain? We can't hear you.

The Witness: One leader.

Q. (By Mr. Rissman) And that one leader is a man 965 who has been active in organizing the employees of The Falk Corporation and other corporations in and around Milwaukee?

A. Yes.

Q. (By Trial Examiner Batten) What is his name?

A. Mr. Adelman.

Q. What opinion did you express?

A. I explained the way the C. I. O. was explained to me,

a lot of boys told me they would run the shebang, that the workers would have nothing to do with it during the strike with Mr. Adelman stepping in and saying he would take care of it, and I didn't think that was proper.

Q. Have you ever been a member of the C. I. O.?

A. No, I have not.

Q. Have you ever read its constitution?

A. No, sir.

Q. Have you ever read its by-laws?

A. No, sir.

Q. Then you are not at all familiar with the way they conduct their business?

A. No, sir.

Q. (By Mr. Rissman) Do you recall in one of your conversations with William Neal, an employee in this plant, the conversation was had about April 23rd, you said you felt sorry for Louis Meindle, Steve Foti and Bill Neal because of their membership in the C. I. O.?

906 A. No, I don't recall any such conversation with Bill Neal.

Q. Do you recall anything like it?

A. No, sir.

Q. Do you recall any conversation with Bill Neal where you mentioned Steve Foti and Louis Meindle's names?

A. I may have mentioned their names in the course of our conversation.

Q. In connection with their membership in the C. I. O.?

A. I don't think that ever come into bearing at all.

Mr. Rissman: That is all.

Cross-Examination.

Q. (By Mr. Lamfrom) These views, Mr. Cain, which you have testified to that you expressed with regard to unions, were those your own views?

A. Yes, sir.

Q. Were any of them the result of any conversations or instructions that you received from any officers of The Falk Corporation?

A. Well, we had instructions that we could not express our opinions too freely. It seems that we were not allowed to do that in the shop.

Q. I am not referring to that, but I am referring to the times at which you did express your views on unions freely.

A. That was my own personal opinion.

Q. Was it in any way an expression of your views, in any way the result of any instructions received from any official of the company?

A. No, sir.

Q. Or any reason—because of any reason that you felt you were reflecting the views of the officials of the company?

A. No, I never felt that way about it.

Q. Do you know what the views of the officials of the company were on labor organizations?

A. Well, just as hearsay, talk that goes around, not positive.

Q. What was the hearsay talk?

A. Well, they did not want a closed shop; it never has been a closed shop, and naturally it was not wanted at this time.

Q. Well, did you feel in the expression of your opinions, that if there was a bargaining agent agreed on or decided by the Labor Relations Board, which was a better rated union, an American Federation unit or C. I. O. unit, that that would lead to a closed shop condition in the Falk plant?

A. Yes, sir, it always has in others.

Q. You were here, Mr. Cain, and heard Mr. Koch's views on a closed shop?

A. Yes, I heard it.

Q. As he testified to them.

A. That part of his testimony, I heard that.

Q. With reference to your views on a closed shop, are they the same as Mr. Koch's?

A. Very similar.

Q. Well, why is it that you are opposed to a closed shop?

A. Well, I don't think if I wanted to work down there, I think I should be allowed to work there, whether I belonged to the same organization as the others or not, as long as The Falk Corporation would be willing for me to work.

Q. Well, you would not be eligible to one of these labor organizations, would you?

A. No, sir.

Q. Now, when you use yourself as an example, you mean any man should be permitted to work in the plant?

A. Any man.

Q. Irrespective of whether he is a member of any labor organization or not?

A. That is it.

Q. Is that the principle which you believe to be consistent with real liberty as we understand it here in America?

A. I always have felt that way.

Trial Examiner Batten: I just wonder, Mr. Lamfrom, whom you mean when you say "as we understand".

Mr. Lamfrom: The witness and myself.

Trial Examiner Batten: I see.

Mr. Lamfrom: Well, I really think there could not be much argument on that question from a philosophic and substantially liberal point of view.

Trial Examiner Batten: I wasn't arguing.

Mr. Lamfrom: No, I know. That is all.

(Witness excused.)

Trial Examiner Batten: I believe we will recess for a few moments.

(A short recess was taken.)

Trial Examiner Batten: I believe we are ready to proceed, gentlemen.

Mr. Rissman: Mr. Wilfer.

JOHN WILFER, a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination.

Q. (By Mr. Rissman) Will you state your name and position?

A. John Wilfer.

Q. What is your present occupation?

A. Machinist.

Q. Where are you employed?

A. The Falk Corporation.

Q. How long have you been employed by The Falk Corporation?

A. About 26 years.

Q. In what department are you now?

910 A. In No. 1 shop.

Q. Are you a member of any labor organization?

A. No, sir.

Q. Were you ever a member of the Works Council of The Falk Corporation, Mr. Wilfer?

A. Yes, sir.

Q. How long ago?

A. Well, I couldn't tell you offhand when that started.

Q. Were you present at the meeting of April the 12th, 1937 under the hospital in the plant?

A. I don't remember that.

Q. Do you remember a meeting called on Monday, about noontime, for the purpose of discussing some form of employee representation?

A. What do you mean, the Works Council?

Q. Well, there were present members of the Works Council and former members of the Works Council, and Mr. Falk, when there was a discussion about an independent union.

A. Yes, at that time, I was, yes.

Q. How did you happen to be at that meeting?

A. Why, I think they called us in, all the old members from the Works Council, because I served on the Works Council only six months.

Q. Who called you in?

A. That I don't remember.

911 Q. Who was the person who asked you to come to that meeting?

A. I think it was in writing.

Q. You received a little slip or note?

A. I think it was.

Q. Did you know when you went down there the purpose of that meeting?

A. No, sir, I did not.

Q. Did you ask your foreman, or tell your foreman that you were leaving the shop to go to the meeting?

A. I don't remember whether I did or not.

Q. You don't remember?

A. No, I don't remember whether I did or not.

Q. You were working days at that time?

A. Yes, sir.

Q. Do you recall what took place at that meeting, some of the discussions?

A. Well, I will tell you, there were so many talking at one time, I don't know what was going on.

Q. Did Mr. Harold Falk speak at that meeting?

A. I believe he did.

Q. Do you recall what Mr. Falk had to say at that meeting?

A. No.

Q. Pardon?

A. No.

912 Q. Do you recall anything Mr. Falk said with reference to an increase in wages?

A. No, sir, I do not. Oh, I asked him that at the meeting, I beg your pardon.

Q. What?

A. I asked him at that meeting whether he couldn't give us our raise on the 1st of May instead of the 1st of June.

Q. Why did you ask him that?

A. Because I was looking for that raise myself.

Q. Did you say anything else to Mr. Falk as to the reason why he should advance the raise from the 1st of June to the 1st of May?

A. I says, "Maybe you will avoid a lot of trouble."

Q. What did you mean by that?

A. That is something I couldn't explain, because it was for my own benefit and the rest of the men in the shop was wondering when they were going to get the raise, because it was at the Works Council when they were going to get a raise.

Q. What kind of trouble did you think the company would avoid by advancing the date from June 1st to May 1st?

A. Maybe a strike.

Q. What other trouble?

A. Well, that was all I could—

Q. Didn't you at that time, Mr. Wilfer, say that, "If the raise were advanced from June 1st to May 1st it would keep a lot of these fellows from joining the C. I. O."?

A. Absolutely no.

Q. Did you say anything like that?

A. No, sir, I did not.

Q. Did you say anything with reference to labor unions?

A. No, sir, I did not.

Q. All you said was that "if the raise were advanced from June to May it would save a lot of trouble"?

A. Absolutely, that is what I said.

Q. And the trouble you had in mind was the strike?

A. Yes, sir.

Q. What talk had there been around the plant about the strike, possibility of a strike that you maybe—that made you feel that trouble might come?

A. Well, I wasn't thinking about any strike at that time, but I know at that time the Works Council was still going on and the fellows in the shop were getting kind of riled up

because they knew that there was a raise coming on, and why they didn't get it. They knew that.

Q. What were some of them doing or saying while they were wondering why the raise didn't come?

A. Because they were wondering what the Works Council was doing, they were not doing anything for the workman at all. That was what they were saying.

Q. Were they saying anything else with reference to 914 labor organization?

A. Yes, they were.

Q. What were they saying?

A. Because most of them, most of them—I wouldn't say most of them, but I would say that some of them have joined the C. I. O.

Q. In other words they said "The Works Council is not doing anything for us, this raise is slow in getting here, or we should join the C. I. O.", words to that effect?

A. No, I didn't hear them say that.

Q. I don't mean those words, but with that feeling in the plant, general feeling in the plant?

A. No, not according to my feeling.

Q. The feeling of the other men?

A. Well, I don't know, I could not read their minds.

Q. But you do say that they were disappointed with the slowness of the raise and they were disappointed with the lack of activity by the Works Council?

A. Yes, sir.

Q. And because of that they decided, some of them, to join the C. I. O.?

A. Maybe they were, and maybe it wasn't that, I couldn't say.

Q. You just said that.

Mr. Engelhard: He said he could not read the men's 915 minds.

Q. (By Mr. Rissman) You testified a few minutes before, you said you couldn't read their minds, that some of them as a result of that were joining the C. I. O., did you not?

A. Maybe they were, I don't know; maybe on that, I can't—

Q. But you do know that a number of them were joining the C. I. O.?

A. Sure they were joining the C. I. O.

Q. Do you feel or do you know, Mr. Wilfer, whether or not

the advancement of the raise from June 1st to May 1st prevented a number of men from going into the C. I. O.?

A. I don't know.

Q. Do you feel, and give us just your opinion, as to whether or not the C. I. O. would have gained more members if the company had granted the wage increase on June 1st rather than advanced it to May 1st?

A. I don't know.

Mr. Engelhard: That is objected to.

A. I don't know.

Trial Examiner Batten: He has answered, he said he does not know.

Mr. Engelhard: All right.

Q. (By Mr. Rissman). Have you any opinion?

Mr. Lamfrom: I object to that.

A. I have my own opinion.

916 Q. (By Mr. Rissman). What is that opinion?

Mr. Lamfrom: Just a minute, I object to that.

Mr. Rissman: The witness can testify as to his opinion.

Trial Examiner Batten: Just a minute, let's hear what the objection is.

Mr. Lamfrom: Well, it calls for a mere speculative opinion. How can he tell whether or not more would have or not. That depends on a lot of human reactions, human emotions and human events.

Mr. Rissman: I don't think—

Mr. Lamfrom: Just a minute, Mr. Rissman, you have a habit of interrupting your opponent when he is making a statement for objection.

Mr. Rissman: I am reflecting—

Mr. Lamfrom: Now, you are interrupting me again, just keep quiet for a minute.

I say, that cannot shed any light upon this controversy, what his opinion was, as to whether this wage raise stimulated or did not stimulate membership in the C. I. O. That may be dependent upon a thousand elements.

Trial Examiner Batten: Well, at this time in order to settle the question of witnesses expressing their opinion, the Examiner is going to very definitely rule and sustain the objection to this question. I think it is quite immaterial what this witness' opinion is.

917 If the conversations which took place, the facts that occurred are shown, I think the Trial Examiner can draw his own conclusions as to what effect these matters had upon the C. I. O. or the A. F. of L. or the Independent Union.

So, if the facts are shown, what the various people said, what they did on these matters, the Examiner can draw his conclusions as to what effect those things have.

Q. (By Mr. Rissman) Mr. Wilfer, when you said to Mr. Falk that by advancing the date of the pay increase from June 1st to May 1st he might avoid a lot of trouble, what did Mr. Falk say?

A. Oh, that I don't remember.

No, I will take that back. He said, "I think we can." He says, "I will see."

Q. And the raise, as you know, was actually advanced to May 1st?

A. Yes, sir.

Q. Do you know, Mr. Wilfer, from your experience around men, and as a man who has been employed for a number of years, what effect that increase had upon the men with reference to their joining or not joining the C. I. O.?

A. I don't know.

Mr. Lamfrom: That is objected to. Just a minute.

Trial Examiner Batten: He has answered, he does not know.

918 Mr. Lamfrom: Now, Mr. Wilfer, just wait a minute.

When the learned counsel for the National Labor Relations Board asks you questions give us a chance to object to them, if we feel they should be objected to, before you answer.

Q. (By Trial Examiner Batten) Mr. Wilfer, after the raise was granted, did you hear any further talk at the shop similar to that which you heard before the raise was granted?

A. Well, I suppose they joined the C. I. O. after the raise was granted.

Q. Was there any further discussion in the shop among the men showing that they were dissatisfied with the Works Council or because the raise had not been granted; in other words, did it have any effect on the talk in the shop?

A. Well, I don't know, I talked with Mr. Landry and I talked with some more C. I. O. men, and it was mostly foolish, "everybody is not getting enough money".

Q. What I asked was, did you see any difference between the dissatisfaction in the shop before the raise was granted and after the raise was granted?

A. No, the same thing.

Q. In other words, it was exactly the same?

A. The same thing.

Q. (By Mr. Rissman) Do you feel, Mr. Wilfer, that after

the raise was moved up from June 1st to May 1st the cause of this trouble that might have happened had been re-
919 moved?

A. No.

Q. You felt that there was just as much possibility of trouble?

A. Sure.

Q. So that the advancement of the raise date from June 1st to May 1st did not accomplish its purpose?

A. No.

Q. The men, regardless of the fact that they got their raise a month earlier—

A. Yes, sir.

Q. —were still going to the C. I. O.?

A. Yes, sir.

Q. But do you know what the purpose of the advancement of the raise was?

A. No, sir, I don't.

Q. Except as you stated before, to avoid trouble?

A. To avoid trouble, that was all.

Mr. Rissman: That is all.

Cross-Examination.

Q. (By Mr. Engelhard) Mr. Wilfer, are you positive that the conversation you testified to, which was had between you and Mr. Falk was on the 12th of April?

A. Oh, I don't remember that.

Q. All right. Now, that may have occurred prior to the Works Council meeting, may it not?

920 A. I don't remember.

Q. Well now, if the records of the Works Council show that on April 8th the wages were increased effective May 1st, 1937—

A. Yes.

Q. —would that in any way refresh your recollection as to whether or not that conversation occurred prior to May 8th or on May 8th?

A. Oh, I don't remember that.

Mr. Engelhard: Mark this Respondent's Exhibit 3 for identification.

(Whereupon, the document above referred to was marked Respondent's Exhibit No. 3 for identification.)

Q. (By Mr. Engelhard) Mr. Wilfer, look at Respondent's Exhibit No. 3. Were you a member of the Works Council?

A. Yes, sir, not on that date.

Q. Were you present at the meeting of April 8th?

A. I wouldn't say, I don't know.

Q. Well, the records show you were not.

Now, do you know when you had a Works Council meeting prior to April 8th?

A. That is a long time, I don't remember that; that is a long time ago.

Mr. Engelhard: I offer in connection with the cross-examination, Mr. Trial Examiner, the minutes of the meeting 921 of April the 8th, together with the mimeographed form of statement furnished to the meeting, and I call attention to the fact that in the Falk Corporation's statement to the meeting of April 8th there is this:

"Effective May 1, 1937, we propose to increase the pay of all hourly workers now receiving 50 cents per hour, or under, approximately 10 cents per hour, and those now receiving 60 cents per hour, or over, will be increased approximately 5 cents per hour.

"However, there is reserved to the company the right to vary from this procedure to the extent of giving such attention to each case and making adjustments thereto in individual cases as in our judgment seem advisable. As was the case in the increase given January 1, 1937, we will give careful attention to those in the lower wage brackets, but here again the adjustment will be made upon the basis of merit. At the same time piecework rates will be adjusted up in an amount according to"—"equal to approximately 5 per cent. Apprentice schedules have been handled separate from this arrangement."

Trial Examiner Batten: Of course, if there is no objection it will be received.

Mr. Rissman: I object to the introduction of this exhibit.

Trial Examiner Batten: It will be received without 922 any reference to this witness' testimony, as he was not present at this meeting.

Mr. Engelhard: No, but I wish to offer it, Mr. Examiner, for this reason, that he was asked whether or not there was an advancement made as to the increase from June 1st to May 1st; I merely show this for the purpose of the record, to show that if this testimony that the advancement of wages was made from June 1st to May 1st, the records show that the advancement was already in as early as May 8th.

Trial Examiner Batten: Of course with respect to this witness it is absolutely immaterial what the exhibit shows.

The witness has testified that at the meeting of April 8th Mr. Falk, in answer to his question, made a statement with respect to the increase in wages, and as I say, the exhibit will be received without any reference to this witness' testimony, if there is no objection.

Mr. Rissman: I object.

Trial Examiner Batten: Without any reference to this witness' testimony.

Mr. Rissman: I object to the introduction of this document.

First, it has not been identified by any witness.

Secondly, we have the testimony of the secretary of the Works Council that usually eight days to two weeks elapsed between the time of a meeting and the time of preparing 923 the minutes.

Thirdly, we have the testimony of Mr. Harold Falk, the vice president of the company, that originally the wage was scheduled—the increase was scheduled to be given June the 1st, but after a conversation at the meeting of April 12th and a statement by some employee—he didn't remember the employee, and the employee now testifying was—he agreed to advance the date from June 1st to May 1st, and that statement in those minutes is entirely improper, because we have no understanding and no testimony with reference to the minutes, when they were written, who supervised them, who corrected them or changed them.

Mr. Engelhard: Now, in regard to that increase, when I asked Mr. Wilfer whether or not the conversation he testified to that he had with Mr. Falk, that occurred between him and Mr. Falk was on April 12th, and to that he said he did not know and was not certain.

924 **Trial Examiner Batten:** I do not think there is any question in the witness' mind but what it occurred at this meeting that took place, the one which he says he was called to by written notice, I don't think there is any question in the witness' mind about this conversation taking place at that time, and this witness did not attend this Works Council meeting and has so stated.

Mr. Rissman: He was a member of the Works Council—

Trial Examiner Batten: The objection will be sustained as to this point, that there is no foundation laid for its introduction nor has it been identified.

Mr. Engelhard: Well, I think we will withdraw it for the time being.

Q. (By Mr. Engelhard) Mr. Wilfer, who else was at this meeting besides Mr. Harold Falk?

A. Well, they were all old members from the old Works Council, and I was on the Works Council for the first six months; then we discussed of course—

Q. (By Mr. Rissman) In 1933?

A. How?

Q. In 1933, when it was first organized?

A. I don't remember, I couldn't say.

Q. (By Mr. Engelhard) Who was in attendance at that meeting besides Mr. Harold Falk and the men that you stated?

A. Well, after thinking it over and writing it all down, 925 I could name—there may have been 15 or 20.

Q. Well, are you sure that Mr. Harold Falk was there at that meeting?

A. Yes, sir, because they have called him.

Q. When did this meeting start?

A. I couldn't say, maybe one o'clock, maybe half past one.

Q. Do you know when the meeting ended?

A. I have no idea. I think I went home at 3 o'clock. We only wanted to know about the Wagner bill, and at that time, as he expressed it, he didn't know much about it.

Q. You are speaking of Mr. Harold Falk?

A. I wouldn't say whether it was Mr. Harold Falk's son or whether it was Mr. Harold Falk.

Q. Was there anyone else there from the company?

A. Yes, Mr. Kreger and Mr. Greget—

Q. I am not speaking now of employees; I am speaking of the company, the management.

A. There was nobody else there, it was either Mr. Dick Falk or Mr. Harold Falk, I wouldn't say.

Q. Well, did you see Mr. Harold Falk there at the meeting?

A. I wouldn't say for sure.

Q. But you stated that you and he had a conversation at that meeting.

A. That was a couple of weeks before, and at this meeting I asked him if he couldn't advance that raise; may- 926 be it was Mr. Harold Falk, I asked this point-blank, if he couldn't advance that raise, because I had talked to him previously before the meeting.

Q. You mean this meeting of April 12th?

A. I don't know what date.

Q. You said that Mr. Harold Falk was there?

A. Yes, he must have been there, because I asked him if he was going to advance that increase in pay.

Q. How long was he there?

A. Maybe 15 minutes.

Q. Was it at the beginning or at the end of the meeting?

A. The beginning, we called him.

Q. He came there at the beginning?

A. Well, we were just chewing the rag and smoking cigarettes, you knew.

Q. Was there any formal meeting then?

A. No.

Q. Did anybody act as chairman?

A. No.

Q. When you say you were sitting around chewing the rag, by that you were having a general discussion about things?

A. That was all.

Q. What was the discussion?

A. Oh, I don't remember that; there were so many talking at one time, you couldn't—

927 Q. Was there any collection taken up at that meeting?

A. No, sir, not that I saw.

Q. You don't know who called that meeting?

A. No, sir, I don't know who called that meeting.

Q. On direct examination you were asked—

A. I think they called us in.

Q. But you don't know who called you?

A. I don't know who called us in, so nobody called us in, but I don't know,—I mean the instigator of calling this meeting, that is something I don't know.

Mr. Engelhard: That is all.

Redirect Examination.

Q. (By Mr. Rissman) Mr. Wilfer, who handed you the slip of paper telling you to come to the meeting?

A. I think it was the office boy.

Q. And the office boy is generally the one who walks around and distributes notices of the company?

A. Mail.

Q. And mail and any messages they want the men to get.

A. Yes.

Q. Where were you when you received this message?

A. At my machine.

Q. You were working?

A. Yes, sir.

Q. For how long were you absent from your work?

928 A. What do you mean?

Q. In attendance at that meeting.

A. Well, my machine runs for three or four hours, and I don't do nothing.

Q. But you were not watching the machine, you were not working?

A. I don't have to watch it.

Q. You were not working?

A. No, I wasn't working, I was just standing around.

Q. How long were you at the meeting, away from the place where you usually stand when you watch your machine?

A. Well, maybe I was away from the machine, maybe, two hours.

Q. You were paid for that time?

A. How?

Q. You were paid for the time?

A. Yes, sir, my machine was cutting.

Q. And later on that sum was deducted from your pay?

A. Off of my pay?

Q. Yes.

A. Not off of my pay, because I left that machine running.

Q. You never got any deduction of this money received for attending the meeting?

A. No, because I walk all over the shop.

Q. There isn't any doubt in your mind about the conversation between you and Mr. Harold Falk about this
929 wage increase, is there?

A. Well, I thought I would ask him if we could—I thought I would ask him, if we got it, all well and good, and if we didn't—

Q. Well, I mean there is no doubt in your mind now that that conversation occurred between you and Mr. Falk?

A. I don't quite get that.

Trial Examiner Batten: I think it is quite clear, Mr. Rissman, from the evidence, there isn't any doubt about the fact that there was a conversation.

Mr. Rissman: That is all.

Mr. Lamfrom: That is all.

Trial Examiner Batten: That is all, Mr. Wilfer.

The Witness: All right, thank you.

(Witness excused.)

Mr. Rissman: Is Mr. Adamski here?

STANLEY JOSEPH ADAMSKI, a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination.

Q. (By Mr. Rissman) What is your name please?

A. Stanley Joseph Adamski.

Q. How long have you been employed by The Falk Corporation?

930 A. It will be 16 years—

Q. In what capacity?

A. Core maker.

Trial Examiner Batten: What?

The Witness: Core maker.

Q. (By Mr. Rissman) And how long have you been a core maker, Mr. Adamski?

A. How long have I been a core maker?

Q. How long have you been doing that work?

A. 16 years.

Q. Are you a member of any labor union?

A. I think the Independent is labor union.

Q. You are a member of the Independent, and you are not sure whether it is a labor union?

A. I am a member.

Q. You are a member of the Independent Union of Falk Employees?

A. Yes.

Q. By "labor union," you were thinking of some other type of organization?

A. I wouldn't say.

Q. Well, is there any distinction in your mind between the kind of organization the Independent is and a labor union?

A. It is just because of the law, there is some confusion now whether the Independent is an organization or not; 931 that is the dispute, that is what the papers say.

Q. Well, do you know if that confusion exists in the minds of the members of the Independent?

A. I would not say that.

Q. How long have you been a member of the Independent?

A. Ever since it was organized.

Q. Were you present at the first meeting where it was—
where its organization was discussed?

A. Yes, sir.

Q. Were you a member of the former Works Council?

A. Yes, sir.

Q. Up to the time of its last meeting?

A. Yes, sir.

Q. Did you attend the meeting of April 8th, 1937?

A. Yes, sir.

Q. Do you recall any conversation or discussion at that meeting with reference to the necessity of abandoning the Works Council?

A. No, sir.

Q. Was there anything said at that meeting to the effect that it would be necessary to give up the Works Council, because it is now against the law?

A. Yes, sir.

Q. Who said that?

A. I think it was Mr. Green.

932 Q. Mr. Green, the superintendent?

A. Yes, sir.

Q. What else did Mr. Green say?

A. That was all he said.

Q. Who was it that made the statement with reference to the fact that if the Works Council goes out of existence, "We ought to have some other kind of organization to take its place"?

A. I don't remember of a statement like that.

Q. Do you remember any statement like that?

A. Just what was said by our Works Council representatives.

Q. That is what I mean, was there anything like that?

A. That was when eight of us fellows was talking.

Q. Of the employee representatives, was there a discussion among those men as to the advisability of getting a new organization to take the place of the Works Council?

Mr. Lamfrom: Are you talking about the discussion at this meeting, or talking about some other discussion?

Q. (By Mr. Rissman.) On April 8th, the day of the last meeting.

A. That was the meeting of the Works Council and management.

Q. Now, on April 8th, when you had a meeting of the Works Council, there were really two meetings, one where the fellows got together by themselves, and a regular 933 Works Council meeting, is that right?

A. Yes, sir, one the day previous.

Q. The day previous?

A. Yes, sir.

Mr. Lamfrom: Will you talk a little louder, please, Mr. Adamski, so that we can hear you.

Q. (By Mr. Rissman.) At the meeting the day previous or the Works Council meeting itself, at either one of those two meetings, was there any discussion or statement or conversation between the men as to the necessity of having a new organization to take the place of the Works Council?

A. Yes, sir.

Q. Who made that statement?

Trial Examiner Batten: At which meeting?

Q. (By Mr. Rissman.) Which meeting?

A. April 7th.

Q. And who made that suggestion?

A. Our chairman, John Brever.

Q. The purpose of these meetings, before the Works Council meeting, was to take up matters that would later be presented to the Works Council?

A. To the management.

Q. Was there anything said at the meeting of April 8th about this same subject?

A. I don't remember.

934 Q. Was there anything said at the meeting of April 8th about a meeting to take place shortly afterwards, for the purpose of discussing or creating a new organization, to take the place of the Works Council?

A. No, sir.

Q. Was there anything said at the meeting of April 8th with reference to asking the permission of Mr. Falk for the use of company premises for a meeting?

A. No, sir.

Q. Don't you remember it?

A. There wasn't no such thing as that occurred.

Q. Did you attend the meeting that was held the following Monday, on April 12th?

A. Yes, sir.

Q. Who told you about that meeting?

A. John Wolf.

Q. Who is John Wolf?

A. He was more or less acting as secretary to our chairman, John Brever.

Q. When was the first time you heard there was going to be a meeting on April 12th?

A. That was the 12th of April.

Q. You didn't know about it before that time?

A. I knew there was something said about it.

Q. What was said about it?

935 A. Well, we on the Works Council thought we would get an independent union going.

Q. And what else was said about it?

A. I don't believe there was much more said about that.

Q. Did you take part in the discussion about getting an independent union going?

A. Yes, sir.

Q. What did you say?

Trial Examiner Batten: When was this discussion, and where?

Q. (By Mr. Rissman) April 7th you are talking about?

A. No, sir.

Q. Well, before?

A. You had April 12th in here already.

Q. Before April 12th, when was the first time you knew there was going to be a meeting to create an independent union?

Mr. Goldberg: I think he answered that, he said April 12th.

Mr. Rissman: Read the answer.

(The record was read.)

The Witness: The 7th of April.

Q. (By Mr. Rissman) The 7th of April. Did you take part in the discussion of April 7th?

A. Yes, sir.

Q. You said nothing was said on April 8th about an independent union or any kind of union?

A. No, sir.

Q. When was the next time after April 7th that you knew about the independent union, before April 12th?

A. I did not know anything more until April 12th.

Q. You said that John Wolf told you about it on April the 12th?

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A. Yes, sir.

Q. How did he tell you about it, and where?

A. Well, he says "We are getting all the old Works Council men together and we are going to get as much as we can"—

Q. Where did you meet?

A. Below the hospital.

Q. Did you get permission from your foreman to leave your work to go to that meeting?

A. Yes, sir.

Q. Who was your foreman?

A. Joe Dozey.

Q. What did you tell Joe Dozey?

A. I said "I am going to that meeting."

Q. Did you tell what kind?

A. No, sir.

Q. Did he ask you?

A. No, sir.

Q. Why didn't he ask you?

937 A. He never asked me; he knew I was active on the Works Council, and all I said was, "I was going to the meeting."

Q. And he said "All right"?

A. "O.K."

Q. When you got to this meeting, who was there?

A. About 23 fellows were there.

Q. It was held under the hospital on company property and on company time?

A. Right.

Q. And at that meeting you discussed the creation and formation of an independent union?

A. Yes, sir.

Q. When did Mr. Harold Falk come into that meeting?

A. I think it was late in the afternoon.

Q. Some of the boys sent for him?

A. Yes, sir.

Q. Why did they send for him?

A. They wanted to know the low-down on the Wagner Act.

Q. They wanted to get some information as to how to proceed?

A. Yes, sir.

Q. And Mr. Falk said he couldn't give you the information?

A. No, sir.

Q. What did he say?

A. Let's see—well, he said, as much as he knew about 938 it, he explained about the Wagner Act.

Q. At that time did he say anything about the A. F. of L. or the C. I. O.?

A. No, sir.

Q. Don't you recall that at that time he said that—he pointed out to you that the A. F. of L. and the C. I. O. were having difficulties and the best thing for the employees to do was to have an independent union not connected with either the A. F. of L. or the C. I. O.?

A. No, sir.

Q. He didn't say anything like that?

A. No, sir.

Q. Were you in the courtroom Monday?

A. Yes, sir.

Q. Did you hear Mr. Falk's testimony?

A. I heard some of it.

Q. Were you here when he testified about what he said at that meeting?

A. I don't believe so.

Q. (By Trial Examiner Batten) What did Mr. Falk say at the meeting?

A. Well, we wanted to know about—wanted him to explain to us about this Wagner Act.

Q. I know, but what did he say to the men? Tell me what he told you, what did he say?

939 A. Well, I couldn't give it word for word.

Q. Well, tell me, if you remember what he said?

A. He said, he explained about the Wagner Act, that the Works Council was all washed up, and that was all he had to say.

Q. Well, how long was he there?

A. I would say about five minutes.

Q. It didn't take five minutes to say that?

A. No, I wouldn't say so.

Q. Haven't you any recollection? Did he make any explanation of the Wagner Act?

A. No, sir.

Q. Did he tell you what rights you had to organize a union?

A. That was what we wanted to know more or less from him.

Q. What did he tell you your rights were, when you come to organize the union?

A. We had as much right as any organization, if we wanted to organize.

Q. What else did he say to you about organizing?

A. That is all I remember.

Q. (By Mr. Rissman) Now, was anything said at that meeting by Mr. Falk in connection with the raise?

A. Yes, sir.

Q. What was said and by whom?

A. Well, John Wilfer said, "Well, Mr. Falk, how
940 would you like to move that raise up from June the 1st up to May 1st". That was all.

Q. What else did John Wilfer?

A. That is all I know.

Q. What did Mr. Falk say?

A. Well, he says "All right."

Q. You remember that?

A. I remember that.

Q. What else happened at that meeting? Did Mr. Falk leave after he finished?

A. Yes, sir.

Q. What happened after he left?

A. I don't think there was much happened after he left.

Q. Did you discuss ways and means of forming an independent union?

A. I think we did.

Q. Did anybody discuss the advisability of joining a union affiliated with the A. F. of L. or the C. I. O.?

A. I don't understand that question.

Q. Did anybody mention anything about joining the C. I. O. or the A. F. of L., or did they just discuss an independent union?

A. That was what we were there to discuss, an independent union.

Q. And what was the final problem that was decided
941 upon or the final solution decided upon when that meeting closed?

A. Well, it was to get a lawyer.

Q. Was a committee appointed for that purpose?

A. Yes, sir.

Q. Were there any lawyers' names suggested at this meeting?

A. Yes, sir.

Q. Who were some of the lawyers whose names were suggested there?

A. Mr. Padway was suggested.

Q. Joseph A. Padway?

A. That is right.

Q. Did you know he was counsel for the Milwaukee Trades Council, the A. F. of L. and other labor organizations?

A. Yes, sir.

Mr. Goldberg: Who is our good friend.

Q. (By Mr. Rissman.) Who suggested Mr. Padway?

A. Mr. Landrey.

Q. Mr. Landrey is at present the president of the C. I. O. local?

A. Yes, sir.

Q. Was there any discussion about the advisability of engaging Mr. Padway to create an independent union?

A. No, there was no discussion at all about it.

Q. Were there any other lawyers' names suggested?

A. No, sir.

942 Q. Did the men decide not to use Mr. Padway at that meeting?

A. It wasn't decided—it was just—I imagine more in the minds of the men, that he was affiliated with the A. F. of L. and stuff, so they just forgot that the man's name was mentioned.

Q. I suppose they thought it was a rather ridiculous suggestion of Mr. Padway's name for the creation of an independent union?

A. Correct.

Q. They didn't want to take such chances, did they?

Mr. Lamfrom: What chances would they be taking if they were able to get Mr. Padway?

(Discussion ensued outside the record, as previously directed.)

Q. (By Mr. Rissman) What was physically done about getting a lawyer?

A. Well, three fellows were selected to go and see Mr. Harold Falk.

Q. Why was it necessary to go and see Mr. Harold Falk for a lawyer for your union?

A. Because as I said, the only fellow's name which was mentioned was Mr. Padway, and we didn't think we wanted him.

Q. There were 23 men present at this meeting?

A. Correct.

943 Q. About 23?

A. About 23.

Q. And none of them could think of the name of a lawyer without the assistance of Mr. Falk?

A. No, sir.

Q. Whose idea was it to go to Mr. Falk?

A. The acting chairman's, John E. Wolf.

Q. John Wolf thought it would be a good idea to appoint a committee to go and see Mr. Falk for a lawyer.

A. Right.

Q. Were there any objections to that procedure?

A. None at all.

Q. The men felt that a good idea, that Mr. Falk could suggest or recommend a lawyer who could create your union for you.

A. Right.

Q. Who was on the committee that went to see Mr. Falk?

A. Johnnie Mitchka, Leslie Greget and myself.

Q. When did you see Mr. Falk, the same day?

A. I think the same day.

Q. You three went to his office?

A. Went to his office.

Q. During work hours?

A. Yes, sir, while the meeting was in session; the fellows waited for us to come back.

944 Q. They waited for you to bring a report?

A. Yes, sir.

Q. And what conversation took place in Mr. Falk's office then?

A. Well, we just went up to see if he could recommend a lawyer to us.

Q. And who was the spokesman, and what did he say, which one of you three men?

A. I think it was Mr. Greget, I think, talked to him.

Q. What did Mr. Greget say?

A. Well, that he could recommend a lawyer to us, as long as we wanted to form a union.

Q. Was Mr. Falk told that Mr. Padway's name had been mentioned in the prior meeting you had?

A. I don't remember that.

Q. And in the opinion of the men would Mr. Padway have been acceptable to the company as attorney for the union?

Mr. Lamfrom: I object to that. There is no evidence—

The Witness: I don't get that.

Mr. Lamfrom: —on which to base any such question.

Trial Examiner Batten: Well, I will sustain the objection. I don't think he is qualified to answer it.

Q. (By Mr. Rissman.) What did Mr. Falk say when you asked him for an attorney to form your Independent Union?

A. I think he suggested two or three fellows.

945 Q. Did you finally go to one of the men he suggested?

A. Go the man—

Q. Did you finally engage a lawyer that Mr. Falk recommended?

A. Yes, sir.

Q. And that lawyer—

Mr. Clark: Just a minute, I object to the form of that question. He didn't recommend any lawyer.

Mr. Rissman: Suggested.

Mr. Engelhard: Suggested—

Mr. Rissman: Or mentioned, I don't care about the word.

Mr. Lamfrom: Why don't you ask him what was said?

Q. (By Trial Examiner Batten.) When you asked Mr. Falk to name certain lawyers, what lawyers did he name?

A. I know he named Mr. Burke.

Q. Who else?

A. I couldn't tell you who the other fellows were.

Q. (By Mr. Rissman.) Did he say anything about Mr. Burke besides mentioning his name?

A. No, sir.

Q. Did he say anything about any other lawyers?

A. No, sir.

Q. Just tell us how it happened that Leslie Greget came and said "I would like—we want a lawyer for our union."?

A. "We would like to form an organization, we are not professional organizers" and we knew that we were workers.

946 Q. You said you were not professional organizers.

You mean your—you mean you recognized your inefficiency and for that reason you would go up for advice?

A. Yes, sir.

Q. A professional organizer like Mr. Adelman would not do anything like that?

A. I don't believe it.

Mr. Clark: May I ask, Mr. Examiner, that counsel be asked to remain seated?

Trial Examiner Batten: Well, I don't know that he needs to be seated. Probably it will be better if you stand back—

Mr. Rissman: Do you object if I stand here?

Trial Examiner Batten: —for the purpose of the witness speaking louder. That is the only objection I see.

Mr. Rissman: What is your objection, Mr. Clark?

Mr. Clark: Well, I think the closer you keep the witness, it has a tendency to confuse him.

Q. (By Mr. Rissman) Are you being confused?

A. I wouldn't say that.

Mr. Lamfrom: I don't think Mr. Rissman intentionally and negligently would confuse anybody, I don't think he means to do that.

Mr. Rissman: Thank you.

Mr. Lamfrom: I don't think the fact that he is walking 947 around is confusing to a living soul.

Mr. Rissman: Except Mr. Clark.

Trial Examiner Batten: You may proceed, Mr. Rissman.

Mr. Engelhard: Will you talk up a little louder, Mr. Adamski, so that we can hear you.

Q. (By Mr. Rissman) Tell us just exactly what Mr. Falk said when Mr. Greget finished his statement?

A. As I recall, just recommended a lawyer to us. Well, when he got Mr. Burke in there, he mentioned I think two or three fellows.

Q. And did Mr. Falk make an appointment for you with Mr. Burke?

A. Yes, sir.

Q. Did any of you three men, you, Leslie Greget or John Mitchka, ever know anything about Mr. Burke before the time you heard Mr. Falk mention his name?

A. I don't know if the other fellows did, but I didn't.

Q. Did any of you ask Mr. Falk what kind of lawyer Mr. Burke was?

A. Well, he was just capable of handling this job that we wanted done.

Q. Did you ask Mr. Falk that?

A. Yes, sir.

Q. And Mr. Falk told you?

A. Yes, sir, he thought he was capable of handling this.

948 Q. Did you ask Mr. Falk what Mr. Burke's special qualifications for this work were?

A. No, sir.

Q. You accepted Mr. Falk's statement that he was capable.

A. Right.

Q. When did you go to see Mr. Burke,—or did you go to see Mr. Burke the following morning, who went?

A. Ten of us fellows were picked out to go and see him.

Q. You were one of them?

A. Yes, sir.

Q. And where did you see Mr. Burke?

A. At his office.

Q. Can you tell us who was the spokesman for you men at that meeting?

A. I imagine we all were.

Q. All of you took turns in speaking?

A. Yes, sir.

Q. Who was in the office besides you ten men and Mr. Burke?

A. Mr. Clark come in.

Q. Mr. Clark, the gentleman seated at the table here?

A. Correct.

Q. Representing your union.

A. Yes.

Q. You nodded your head. Will you answer "Yes"?

A. Yes.

949 Q. At that meeting can you recall what requests or what statements were made by members of your committee to Mr. Burke or to Mr. Clark?

A. Well, we got there with the intention of organizing an independent union, and we wanted to know whether we were within the law to do so.

Q. Did you indicate to Mr. Burke or to Mr. Clark how their fee would be paid or by whom?

A. Yes, sir.

Q. And what was that indication?

A. I don't quite get that.

Q. Well, how did you indicate that their fee should be paid, what was said?

A. Well, after about an hour after we first got there, I personally got up and said to Mr. Burke, "Before we go any further what are the fees going to be?"

Q. And what was said?

A. And he said, "Well, you fellows don't have to worry

about it," he said "if this thing falls through, he will take the rap".

Q. Did he say what would happen if it didn't fall through?

A. No, sir.

Q. He says he will do it as a matter of charity? Just to see if it would be successful or not?

A. He didn't say "charity".

950 Q. I mean, to take the rap, to use your words.

A. That was the way we understood.

Q. He says "Well, let it go without a fee."

A. That was just about the way.

Q. He did not indicate to you he would want you 23 men to be responsible for any fee to him?

A. Although we made a collection of one dollar from each man, different men, to send this ten fellows—

Q. How much did you collect there?

A. \$17 I guess.

Q. You did not turn that over to Mr. Burke and Mr. Clark the next day?

A. No, sir.

Q. You didn't tell them about it?

Q. (By Trial Examiner Batten.) Did you make any agreement with Mr. Burke as to the payment of his fee?

A. Not at that first meeting.

Q. There was no agreement made as to the fee to be paid to him?

A. No, sir.

Q. (By Mr. Rissman.) Whose idea was it at that meeting, the men's or the attorneys', as to whether or not the union should be incorporated by the State of Wisconsin?

A. It was the men's idea.

Q. Why did the men want it incorporated? Do you know?

951 According to law I think you had to be incorporated.

Q. Is that right?

A. Personally I don't know.

Q. Do you know why the men felt it should be incorporated?

A. Well, I couldn't answer that.

Q. What was done at that meeting in addition to the request made by the union men or the ten employees, and the advice given by Mr. Burke and Mr. Clark? Was there any action taken?

A. Yes.

Q. What?

A. Well, he drew a paper for us; he got our organization all set up.

Q. Charter and articles of incorporation?

A. Yes.

Q. And in the usual manner you received a certificate from the secretary of State, or did that come later? Are you an officer of the union?

A. Yes, sir.

Q. What is your office?

A. Treasurer.

Q. You are one of the charter members. Does your name appear on the articles of incorporation?

A. No, sir.

Q. Whose names do appear, do you know?

A. Fred Wilson, Joe Trost, and Carl Menz, if I am 952 not mistaken.

Q. Were any other meetings at the plant with the men, to report to them the action of the attorneys and the Committee?

A. I think there was.

Q. And where and when were those meetings?

A. If there were any, why, they were below the hospital.

Q. In the factory?

A. Right.

Q. On company premises?

A. Right.

Q. And on company time.

A. Right.

Q. And the men were paid for attending these meetings?

A. I imagine.

Q. And later deducted?

A. That is right.

Q. How much was deducted from you later on?

A. I think it was \$7.80.

Q. What was your rate?

A. 75 cents,—no, at that time it was 65 cents an hour.

Q. About 12 hours' pay, made, say, between 10 or 12 hours deducted, or more.

A. Ten or 12 hours.

Q. When was it first decided by the employees, by your committee and others, to hold your meetings outside of 953 company property?

A. Sure it was decided.

Q. When?

A. I couldn't just say when.

Q. What led up to that decision? Did the company refuse to continue to giving you premises, or what happened?

A. We were told we can't use those premises.

Q. By whom were you told that?

A. I couldn't tell you.

Q. Somebody from the company, or was that your lawyer that advised?

A. I couldn't say.

Q. Were you told why you couldn't use the company premises?

A. Yes.

Q. What was the reason given?

A. Because the Wagner law or Act called for that.

Q. It was against the law?

Mr. Engelhard: Just a moment, was that the Wagner Act only, or also the Severson Act discussed?

The Witness: There were two acts there, weren't there?

Q. (By Mr. Rissman.) Since we are on the subject of two acts, what was it that led to the termination of the Works Council, do you know?

A. I think it was the Severson Act.

Q. And by the "Severson Act," you refer to the Wisconsin Labor Relations Act?

A. Correct.

Q. Which in its main effect, if not in detail, follows the National Labor Relations Act.

Mr. Lamfrom: Might we add "does not follow it."

Mr. Rissman: Would you, Mr. Lamfrom, wait for him to go ahead and make his statement?

Mr. Lamfrom: I understood you, but he didn't.

Q. (By Mr. Rissman.) It is similar to the National Labor Relations Act?

A. As much as I know about it.

Mr. Engelhard: Just a moment, Mr. Adamski, if you know. Have you ever read the Act?

Trial Examiner Batten: Well, I don't assume he would say something he don't know anything about.

Mr. Lamfrom: Well, I know, of course, but he is just leading the witness on and on and having him give opinions about things which he does not know anything about.

Trial Examiner Batten: Read the question please, Mr. Reporter.

(The record was read.)

Trial Examiner Batten: Well, he has answered the question, he says, as much as he knows about it.

Q. (By Mr. Rissman.) Well, do you know that the Wisconsin Labor Relations Act says that it is unlawful for a union to be dominated by a company and for a union to get any support from a company and assistance, things of that sort, don't you?

A. Yes, sir.

Q. Getting back now, where were the meetings held after you were advised that they could not be held on company property?

A. They were held at the North Avenue Auditorium.

Q. That is in the city of Milwaukee?

A. Correct.

Q. Who owns that auditorium?

A. I couldn't tell you.

Q. It is not owned by the Falk Company?

A. I don't think so now.

Q. Your organization pays rent for it?

A. What is that?

Q. Your organization pays for the use of that auditorium?

A. Well,—

Q. Whenever you use it?

A. Well, I—

Q. (Continuing.) The Independent Union.

A. Correct.

Q. And you are the treasurer?

A. Yes, sir.

Q. Do you have anything to do with the payment of the hall rent?

A. No, I just sign the checks.

Trial Examiner Batten: I think that is a rather important part.

Mr. Lamfrom: You are on the right track anyway, go ahead.

Q. (By Mr. Rissman.) How long have you been meeting at the Auditorium? Or, tell me how many meetings have you held there?

A. I think we have had three there.

Q. How much is your rent per meeting, or do you rent by the month?

A. It was \$20.

Q. \$20 for each meeting?

A. For each meeting.

Q. At any of your meetings at the North Avenue Auditorium have any of the company executives been present?

Mr. Clark: You mean executives of The Falk Corporation, I take it?

Mr. Rissman: What other executives are we talking about?

Mr. Clark: Of course, one of the corporations is the Independent Union.

Q. (By Mr. Rissman.) Any officers of the Falk company, the respondent in this case.

957 A. No, sir.

Q. Was Mr. Hydar ever present at any of those meetings?

A. No, sir.

Q. Were any of the foremen ever present at any of those meetings?

A. I don't know, other than this fellow, whether he is a foreman.

Q. Who is he?

A. I have in mind Mr. Dearth.

Q. Dearth?

A. Yes, sir.

Q. What is Dearth's position in the factory?

A. Well,—

Mr. Engelhard: What is that name?

Mr. Rissman: Dearth, I think it is D-e-a-r-t-h.

Q. (By Mr. Rissman.) What kind of work does he do in the factory?

A. I don't know if he is classed as a foreman.

Q. Why is there any doubt in your mind as to whether he is a foreman?

A. Because he takes care of the night fellows down there, whether he is a foreman, I couldn't say.

Q. (By Trial Examiner Batten.) What does he do?

A. He is a fellow that is there at night.

Q. What does he do at night, give them orders?

958 A. I imagine so.

Q. (By Mr. Rissman.) Is he the boss at night, I mean generally speaking?

A. No, he isn't the boss.

Q. What does he do, order the fellows to listen to him, does he say anything to them at night?

A. Well, probably "get this casting, or get that casting."

Q. He supervises their work?

A. I think so.

- Q. How many meetings has Dearth been to?
A. Just one.
Q. What was he doing there?
A. What was he doing there?
Q. Yes.
A. I don't know.
Q. Did he make any speeches?
A. No, sir.
Q. Was he talking to any of the fellows around there?
A. Not that I know of.
Q. Do you know who talked to him when he was there?
A. They elected him—he was there for one meeting.
Q. And he was elected?
A. And as we were electing the board of directors, some of these night fellows put him up on the ballot.
Q. The night men voted for Dearth?
959 A. Correct.
Q. Did he accept the nomination and election?
A. He accepted it.
Q. Is he now acting as a member of the board of directors?
A. No, sir.
Q. Why not?
A. Because at that time he thought he was no foreman.
Q. Who decided that he was, Mr. Adamski?
A. I couldn't tell you that.
Q. What brought about his resignation from his election to the board of directors?
A. I couldn't tell you.
Q. How many meetings—are you a member of the board of directors?
A. Yes, sir.
Q. How many meetings did Dearth attend of the board of directors?
A. There was only one.
Q. Just when he was elected?
A. Elected.
Q. When was the next time you heard he was no longer on the board of directors?
A. I think the following day.
Q. From whom did you hear it?
A. From our president.
960 Q. Mr. Wilson?
A. Mr. Wilson.
Q. And what did Mr. Wilson say to you?

A. That he is out, he is a foreman, or classed as a foreman.

Q. And your officers—your organization wanted to be careful that it did not elect any foremen or anybody classed as foremen.

A. Right.

Q. What objection does your organization have, your Independent Union have to the election of men who are foremen or men classed as foremen?

A. I don't think they should be there, or as much as on the board of directors.

Q. But the members of the night crew did not feel that way when they elected Dearth on the board of directors?

A. Whether they elected him or he elected himself, I couldn't say.

Q. What do you mean, he elected himself?

A. These fellows couldn't write.

Q. You mean he marked the ballots?

A. Right.

Q. He marked his own name as a member of the board of directors?

A. So I presume.

961 Q. For the night men.

A. Right.

Q. Do you think these night men who worked under Dearth knew that he was voting for them?

A. I couldn't say.

Q. So he elected himself a member of the board of directors representing the night men?

Mr. Engelhard: Now just a moment. Are you testifying, Mr. Adamski, that is a fact, or that is just your opinion?

The Witness: The way I understood it, it was a fact.

Q. (By Mr. Engelhard.) Well, do you know whether or not it is a fact?

A. No, I don't think I would say it is a fact either.

Q. It is all hearsay to you, isn't it? Do you know what "hearsay" is?

Mr. Rissman: I suggest that Mr. Engelhard cross-examine him when his time comes. I resent this intrusion—

Mr. Engelhard: That is all right.

Mr. Lamfrom: It looks as though his time would never come.

Trial Examiner Batten: I think that you may proceed, Mr. Rissman.

Mr. Engelhard: Only sometimes a fellow gets a little bit excited and he would like to say something.

Mr. Rissman: Counsel in this case seem to have been 962 already—they always get excited.

Q. (By Mr. Rissman.) Do you know at that first meeting where Dearth elected himself a member of the board of directors as you testified, that Mr. Fealy was in the hall?

A. Fealy?

Q. Fealy, do you know him?

A. No, sir.

Q. You never heard of him?

A. Never heard of him.

Q. Do you know McAndrews?

A. No, sir.

Q. You don't know either one of those men?

A. Not by name, maybe by sight.

Q. Well, I don't know what they look like, so I cannot tell you.

Anyway, you do not know Fealy and McAndrews, so you can't tell us whether they were present at the meeting or whether they were not present, I mean if you don't know them by name.

A. I don't know them.

Q. As a member and officer of the Independent Union, have you asked any employees to join your union?

A. Yes.

Q. Have you done that during work hours?

A. Yes and no.

Q. Well, do you mean you have done it during work 963 hours and after work hours?

A. Right.

Mr. Rissman: Off the record now.

(Discussion outside the record.)

Q. (By Mr. Rissman.) Do you know if any of the other men solicited members in your union in the plant?

A. In our union?

Q. In your union.

A. I don't know.

Q. Did you ever see any of the other fellows going around with application cards to the men in the plant?

A. Yes.

Trial Examiner Batten: Who was that, who was that—that made that statement?

Mr. Kirsch: I did.

Trial Examiner Batten: If you want to remain here, keep quiet.

Mr. Kirsch: If you want to send me home, send me home.

Trial Examiner Batten: If you want to remain here, you keep quiet.

Mr. Rissman: If the Examiner please, that man is here under subpoena by the board, but I will waive the right under the subpoena and suggest that the Examiner order him to leave the courtroom.

964 (Discussion outside the record, as previously ordered.)

Trial Examiner Batten: You may proceed, Mr. Rissman.

Q. (By Mr. Rissman.) Have you ever spoken with any foreman in the plant about your organization?

A. No, sir.

Q. Have you ever spoken—have they ever spoken to you about it?

A. No, sir.

Q. Have you ever heard any foremen express any opinions about your union?

A. No, sir.

Q. Have you ever had anybody tell you that such opinions have been expressed by foremen—any opinions have been expressed by foremen about your union?

A. I haven't heard them, no, sir.

Q. Do you know as an employee of the plant, who has worked there for many years, the attitude of the foremen toward your organization?

A. I don't know.

Q. Do you know if they favor it or oppose it?

A. I don't know.

Q. Do you know if they favor or oppose the C. I. O.?

A. I don't know.

Q. You have never heard any expression by the foremen on the C. I. O.?

965 A. No, sir.

Q. You have never heard them express any preference for your union?

A. No, sir.

Q. Have you ever spoken to any foremen or supervisors of the plant, superintendents or Mr. Falk, with reference to your organization, either in the plant or out of the plant?

A. What is that?

Trial Examiner Batten: Read the question please.

(The question was read.)

Mr. Engelhard: Now, I submit, Mr. Examiner, that is quite a comprehensive question, and either yes or no would probably not be the proper answer.

Trial Examiner Batten: It is quite comprehensive, although I think it is a question which can be easily understood, and that is, whether he has ever talked with anyone connected with the management in or out of the plant about the union.

Mr. Lamfrom: That is a different question, than counsel propounded.

Mr. Rissman: Then he may answer that question.

Q. (By Trial Examiner Batten.) Do you understand my question?

A. Yes, I understand you.

Q. What is your answer to that question?

966 A. No.

Q. (By Mr. Rissman.) Have you ever spoken to any employees outside the plant or inside the plant about your union or the C. I. O. union?

Mr. Engelhard: Again that is a double-barrel question now. Why not limit it to one organization at a time, so that we know what he means—

Trial Examiner Batten: Read the question please.

(The question was read.)

Mr. Engelhard: That is objected to, your Honor, as a double-barrel question.

Trial Examiner Batten: I think it covers a lot of ground, but to simplify the question, that is, whether you ever talked, whether you ever discussed the independent union or the C. I. O. union with your fellow employees in the plant or outside the plant.

The Witness: I have discussed both unions with fellow workers, sure.

Q. (By Mr. Rissman.) But you have been careful never to discuss any union with your foreman?

A. Right.

Q. Have the foremen ever spoken to you about soliciting memberships inside the plant?

A. No, sir.

Q. Has Mr. Green, the superintendent, ever spoken to

967 you about it?

A. No, sir.

296. *Witnesses for National Labor Relations Board.*

Q. Do you know or were you ever advised that you were not to solicit memberships inside the plant?

A. Yes, sir.

Q. By whom were you advised?

A. Mr. Pritzloff.

Q. Who is he?

A. Superintendent in the foundry.

Q. What did he say?

A. He said "Cut out this application business", and that was the end of it.

Q. When did he say that to you, do you recall?

A. He said that away back when we were getting going.

Q. In the early days?

A. I couldn't recall the exact date.

Q. Shortly after your organization you mean?

A. Yes, I would say that.

Q. (By Trial Examiner Batten.) How many days had you been soliciting members in the plant before the superintendent told you to stop it?

A. I solicited during the noon hour and the next day we were told to cut it out.

Q. Did you ever solicit any members or hand out application cards during working hours?

968 A. I did.

Q. How many days did you do that during work hours before the superintendent told you to stop it?

A. Well, it was all cut out that first day.

Q. The first day?

A. Yes, sir.

Q. How many members did you solicit the first day during work hours?

A. I couldn't recall.

Q. Have you any idea?

A. No, sir.

Q. What type of machine do you operate?

A. Buffer.

Q. Well, when you solicited members, did you have to shut off your machine or leave your machine to solicit these members?

A. Yes, sir.

Q. How long a time that day did you shut down your machine?

A. Probably ten minutes and I would come back and do some more work.

Q. And then shut your machine down again?

A. Yes, sir.

Q. How many times that day did you shut your machine down and go away?

A. I don't remember that.

969 Q. (By Mr. Rissman.) How many members did you sign up that way altogether?

A. I have no idea.

Q. Were you met with refusal by some of the employees when you asked them to join your union?

A. All I did was to hand out the applications, that was the end.

Q. Did you ever say anything as you handed a man an application?

A. "Sign up if you wish".

Q. Did you ever say anything more than that?

A. No, sir.

Q. Did the men ever ask you any questions when you gave them the applications?

A. He would say what I thought of it and I would express my views.

Q. What was the opinion you expressed?

A. That I thought the Independent was the union for them.

Q. What reasons did you give them, if any?

A. They have got a job, they got a raise, bonuses. That was during the Works Council days.

Q. Is this union of yours a continuation of the Works Council?

A. No, sir.

Q. Then how could you claim credit for the advancement 970 tages gained by the Works Council?

A. You see, there are fellows working there that can't read and they can't write.

Q. Yes?

A. And they come to you for suggestions.

Q. Yes?

A. So, the best I could say, I can put to them I put, and whatever they want to do, they would do. I won't say all of the fellows are that way, but there are a few.

Q. But those fellows who are that way were guided about whatever you said was O.K.?

A. Yes, sir.

Q. You felt it was O.K. to have this Independent Union

because, as you stated to the men, they had received bonuses, wage increases, and they have a job, isn't that so?

A. Right.

Q. The bonuses, wage increase and job are all in the hands of The Falk Corporation, isn't that correct?

A. How do you mean?

Q. The Falk Corporation controls the jobs, wages and bonuses; does it not?

A. Right.

Q. And you felt that as long as the men were receiving these things from the company they should not do anything that might displease the company?

971 A. I wouldn't say that.

Q. Well, did you feel that it would displease the company if the men joined the C. I. O. in view of the fact that the company gave the men a job, had given them raises and had given them bonuses?

A. You mean as to joining the C. I. O.?

Q. Yes.

A. It was their privilege to do what they wanted to.

Q. (By Trial Examiner-Batten.) The question is, do you think that the company—let me restate the question:

Do you know the attitude of The Falk Corporation with reference to unions?

A. No, sir.

Q. Do you know what their general reputation among the men is as to their view of the unions?

A. You mean the company union?

Q. The company, the management.

A. I don't know.

Q. Do you know what their views are with respect to the C. I. O.?

A. I don't know.

Q. Do you know anything about their views of unions?

A. No, sir.

Q. You never heard of their position with respect to unions?

972 A. No, sir.

Q. Do you know whether they are in favor of a closed shop?

A. I don't know.

Q. Do you know what a closed shop is?

A. Well, if my mind is right, I do.

Q. What is your idea of a closed shop?

A. You all have either to get into one organization, is that it?

Q. Well, I am asking you.

A. Well, that is my—

Q. (By Mr. Rissman.) Mr. Adamski, you have worked for the company 16 years.

A. Yes, sir.

Q. And you are grateful to the company for the job and bonuses and raises you have received, in that time.

A. Yes, sir.

Q. And you would not do anything knowingly that would displease the company, would you?

A. I don't know why not.

Q. Well, would you do anything that you thought Mr. Falk or the company superintendent didn't like, if what you were doing was in connection with your employment?

A. Sure not.

Q. And do you know whether or not the company favors or disfavors your Independent Union?

973 A. I don't know.

Q. Did it have any effect upon you—or would it have any effect upon you if you knew that the company did not favor the Independent Union?

Mr. Lamfrom: Effect with respect to what? It might make him sick, it might make him want to take a trip, effect with respect to what?

Mr. Rissman: With respect to his membership and activities then.

Trial Examiner Batten: What was the question?

(The question was read.)

Mr. Lamfrom: I submit that question—

Q. (By Trial Examiner Batten.) Well, would it have any effect on your decision in joining the union whether the company was in favor of it or not?

A. I don't think so.

Q. (By Mr. Rissman.) Do you know Rudolph Oristo?

A. Rudolph Oristo?

Q. Yes.

A. Not by name, maybe by sight.

Q. Do you know whether or not any employee of the Falk Corporation prior to the enactment of the National Labor Relations law was ever discharged for his membership in a labor organization?

A. No, sir.

974 Q. Do you know, or did you ever hear Mr. Falk's statement before the Works Council was created, with reference to what he thought about the A. F. of L.?

A. No, sir.

Q. Were you present when Mr. Falk spoke to a group of machinists in 1933 in the plant, when Mr. Falk stood on the 16 foot boring mill and spoke to all of you about unions?

A. I recall the meeting.

Q. Do you recall Mr. Falk's speech at that meeting?

A. Not a thing.

Q. Do you recall he spoke?

A. I recall he was on the 16 foot mill.

Q. You don't remember anything he said?

A. Not a thing.

Q. You don't remember that at that time he said that the employees had ought to have a representation plan of their own and should not have an outside labor organizers?

A. I don't remember.

Q. You don't remember that?

A. I don't remember that.

Q. (By Trial Examiner Batten.) Are there several men working in your department who do not read or write?

A. Three I guess in my department.

Q. Do the men in the different departments elect their own director for the department? You are a director, 975 aren't you?

A. Yes, sir.

Q. And how were you elected director of the Independent association?

A. At the meeting of the North Avenue Auditorium.

Q. Were you elected by everybody that was present at the meeting or the men in your department?

A. Just the men that were present at the meeting.

Q. Whether they worked in your department or some other department.

A. Right.

Mr. Rissman: Just a few more questions.

Q. (By Mr. Rissman.) Mr. Adamski, do you recall a conversation you had with Mr. Richard Falk about April 1st, 1937, where he explained the Severson bill to you?

A. Yes, sir.

Q. Just tell us about that conversation.

A. Well, he called me to the office, and he said "Well"—

Q. Was it during work hours?

A. It was about 3:30.

Q. Was that during work hours?

A. It was during work hours.

Q. Go ahead.

A. About 3:30. "Well", he said, "it is the end of the Works Council. You fellows will have to see what you 976 can do about this yourselves. I don't care what union you fellows want to join, if you want to join any organization at all. You don't have to join any".

That was about all it amounted to.

Q. What did you say?

A. I said nothing, I just took in what he said to me, and the next morning I think it was I went to see Johnnie Breyer.

Q. Did Mr. Richard Falk at that time express any opinion about the A. F. of L. and the C. I. O.?

A. No, sir.

Q. Did he express any opinion about the Independent Union?

A. No, sir.

Q. Did he recommend that the employees ought to form an independent union of their own to take the place of the Works Council?

A. No, sir.

Q. Did you get any such ideas from the conversation you had with him?

A. No, sir.

Q. Did the company pay you for the time spent when you went to Mr. Burke's office with the committee?

A. Yes, sir.

Q. And then it was later deducted?

A. Correct.

Mr. Rissman. That is all.

977 : *Examination by the Chair.*

Q. (By Trial Examiner Batten.) After you left Richard Falk's office, you said you went to see—the next morning—

A. The next morning this was.

Q. Who did you see then?

A. Johnnie Brever.

Q. Who is he?

A. He was our acting chairman of our Works Council at the time.

Q. Did you have a conversation with him?

A. Yes, sir.

Q. What did you tell him?

A. I told him, I said "Mr. Dick Falk said we could join any union we want to, so long as this Works Council is going to be disbanded."

Q. What did he say?

A. Well, he said he had an independent union, he was one that wanted an independent union.

Q. Did he tell you then you had better form an independent union?

A. No, we talked of that.

Q. Was an independent union already going?

A. It was not going then.

Q. It was not?

A. No.

978 Q. What did he say with respect to an independent union on that occasion when you told him about the talk you had with Mr. Richard Falk, what did he say?

A. You mean Brever?

Q. Yes.

A. Well, he says "We have got to get together now", he said, "have got to get this independent union going."

Q. Well, did he say anything about when they would have a meeting or what they would do about getting it going?

A. No, sir.

Q. Nothing was said?

A. No, all he said "Well, let's go and see Mr. Green".

Q. Did you go and see Mr. Green then?

A. Correct.

Q. Who went to see Mr. Green?

A. Brever, Wolf and myself.

Q. Where did you meet Mr. Green?

A. In the shop.

Q. During work hours?

A. This was early in the morning, yes.

Q. What did you say to Mr. Green?

A. Well, Brever was stating everything about this independent union.

Q. What did you say to Mr. Green?

A. So he says "Well, we have got to get all of the ex-
979 Works Council and see what they think of the Independent Union". That was his idea.

Q. He told Mr. Green that?

A. Correct.

- Q. What did Mr. Green say?
- A. Mr. Green says, no—
- Q. What did Mr. Green say?
- A. You can't get the men together.
- Q. Was that before that meeting of April 12th?
- A. Yes, sir.
- Q. What did you do then when you left Mr. Green?
- A. That was all that happened, we went back to work.
- Q. Then when you received notice from the office boy to report to the meeting on April 12th, under the hospital, you knew then that you were violating Mr. Green's instructions about going to a meeting for that purpose, did you?
- A. I didn't get no instructions from the office boy to come to that meeting.
- Q. How did you learn about the meeting?
- A. John Wolf notified me.
- Q. Then when John Wolf notified you about the meeting for the purpose of forming this Independent Union, and you went to the meeting, did you think then of the fact that you were violating Mr. Green's instructions then?
- A. I never thought of that.
- 980 Q. Now, when you went to the meeting of April 12th, you shut your machine off, did you?
- A. Yes, sir.
- Q. Who was your foreman?
- A. Joe Dozey.
- Q. Was he right there in your department?
- A. Yes, sir.
- Q. Did he see you shut your machine off?
- A. I told him.
- Q. You told him you were going to shut it off?
- A. Yes, sir.
- Q. Then you left and went to the meeting?
- A. Yes.
- Trial Examiner Batten: I think that is all.

Further Direct Examination.

- Q. (By Mr. Rissman.) Did you ever have any conversation with Mr. Richard Falk after that one time when he explained the Severson Act to you?
- A. You mean personal conversation?
- Q. Yes, together with the committee.
- A. I think there was one day, also the day after he had

304. *Witnesses for National Labor Relations Board.*

me up there in the office, he had the whole Works Council together.

Q. What did he say to them together?

A. He told them all about this Severson bill, and I think the Wagner Act was discussed on that date, or was it the day before?

Q. Did he tell you how to go about forming an independent union?

A. No, sir.

Q. Didn't he say at that time that it took only three men at a cost of \$5 to get a charter?

A. No, sir.

Q. Weren't you present at that time?

A. No, sir.

Q. How?

A. No, sir.

Mr. Rissman: That is all.

Mr. Lamfrom: Present at what time? You asked if he was present at that time, what time do you have reference to?

Mr. Rissman: The meeting with Mr. Richard Falk.

Mr. Lamfrom: Now, which meeting with Richard Falk?

Mr. Rissman: The meeting he testified to.

Mr. Lamfrom: The one he testified to a moment ago?

Mr. Rissman: Yes.

Mr. Lamfrom: All right.

Q. (By Trial Examiner Batten.) What did Mr. Falk tell you at that meeting?

A. He explained the Severson Bill to us.

Q. Did he tell you what your rights were under the law?

982 A. Yes, sir.

Q. Did he tell you that you had the right to join any union you cared to?

A. We asked if we had the right to.

Q. What did he say in answer to that?

A. Yes.

Q. You asked him if you had the right to form an organization, your own union?

A. Sure.

Q. What did he say?

A. It was within the law.

Q. Was there any further discussion about an Independent Union or a national union?

A. No, sir, not that I recall.

Trial Examiner Batten: I think that is all.

Mr. Lamfrom: May we have the recess for lunch?

Trial Examiner Batten: Yes, I think so.

Mr. Rissman: I haven't any further questions of this witness.

Trial Examiner Batten: Well, I assume—

Mr. Lamfrom: I think we will want the witness back for some examination.

Trial Examiner Batten: You will return after lunch, at 2 o'clock.

The Witness: Yes, sir.

983 Mr. Lamson. Very well.

(Thereupon, at 12:35 o'clock P. M. a recess was taken until 2 o'clock P. M. of the same day.)

984 After Recess.

(Whereupon, the hearing was resumed pursuant to recess, at 2 o'clock P. M.)

Trial Examiner Batten: I believe we are ready to proceed, gentlemen.

Mr. Adamski, will you resume the stand please.

STANLEY JOSEPH ADAMSKI, a witness called by and on behalf of the National Labor Relations Board, being previously duly sworn, resumed the stand and further testified as follows:

Trial Examiner Batten: I notice that Mr. Clark, representing the Independent Union is not here, and that Mr. Goldberg, representing the Operating Engineers is not here, but in accordance with their agreement, we will proceed.

Mr. Lamfrom: I don't know whether Mr. Clark desires to cross examine this witness or Mr. Goldberg.

Mr. Rissman: Mr. Clark may because of the testimony relating to the Independent Union, practically all of it.

Trial Examiner Batten: Now, then, remembering their understanding with the Examiner, we will proceed.

Mr. Lamfrom: Are you through with him?

Mr. Rissman: Yes.

Mr. Lamfrom: Well, we are going to reserve cross examination until later.

Mr. Rissman: Well, is Mr. Adamski considered one of
985 your witnesses?

Mr. Lamfrom: Yes.

Mr. Rissman: The same as the foreman and others?

Mr. Lamfrom: Yes, he is considered one of our witnesses.

Mr. Rissman: All right, I don't know about these other men, but I have no further questions.

Trial Examiner Batten: The witness may be excused, and you wait here a few moments until they get here.

Mr. Rissman: Shall I go ahead with the next witness then?

Trial Examiner Batten: Yes.

(Witness excused.)

Mr. Rissman: Mr. Sagalino.

JOE SAGALINO, a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination.

Q: (By Mr. Rissman.) What is your name please?

A. I can't hear so far, you know.

Trial Examiner Batten: You can't hear so far away.

When you answer, you talk loud, so that they can hear you.

Q: (By Mr. Rissman.) What is your name?

A. Joe Sagalino.

986 Mr. Lamfrom: Pardon me, Mr. Clark has just arrived.

Mr. Rissman: Off the record now.

(Discussion outside the record.)

Trial Examiner Batten: Do you desire to cross examine Mr. Adamski, Mr. Clark?

Mr. Clark: I think not at this time.

Trial Examiner Batten: You mean by that, you may want to later?

Mr. Clark: I thought in connection with his testimony on our side of the case.

Trial Examiner Batten: You intend to use him as your witness also?

Mr. Clark: I expect so. Does counsel for the company intend to use him as their witness also?

Mr. Lamfrom: Yes, we intend to cross examine him and use him as our witness also, in connection with matters relevant to our case.

Trial Examiner Batten: Now, I think this matter of waiving of cross examination or reserving cross examination has gotten to the point where the Trial Examiner will have to make some other arrangements, so from this time on any and all witnesses who are on the stand, if you care to cross examine them it should be done at the time, because if we are going to have it reserved by all four parties or five parties to this action, I don't know where we are going to 987 find ourselves at the end of the hearing.

So, from now on if there is going to be any cross examination of the witnesses you will do so please, at the time the witness is on the stand.

Now, that does not mean you may not call that witness as your own witness later on, but for the purposes of cross examination let's have it at the time.

Q. (By Mr. Rissman.) Where do you work, Mr. Sagalino?

A. The Falk Corporation.

Q. How long have you worked there?

A. 33 years.

Mr. Lamfrom: We can't understand.

Mr. Rissman: You had better come up here.

Trial Examiner Batten: Will you talk a little louder, please.

The Witness: 33 years.

Mr. Engelhard: How many?

The Witness: 33 years.

Mr. Engelhard: 33 years?

The Witness: Yes, sir.

Q. (By Mr. Rissman.) What kind of work do you do now?

A. Assistant foreman.

Q. In what department?

A. The shipping department.

Q. How long have you been an assistant foreman 988 there in the shipping department?

A. Since 1907.

Q. (By Mr. Engelhard.) Since 1907?

A. Since, yes.

Mr. Englehard: Yes.

Q. (By Mr. Rissman.) How many men have you got working under you?

A. Oh, I have got about 16 men, that is all.

Q. 16 men working on the day shift or night shift?

A. What?

Q. Day shift or night shift?

A. Yes, day shift.

Q. Do you ever talk to any of the men who work in your department about the C. I. O. union?

A. Never, I don't talk.

Q. Did you ever talk to any of the men in your department about the Independent Union?

A. Never.

Q. Did you ever talk to the men in your department about any kind of union?

A. No.

Q. Did they ever talk to you?

A. Nobody talked to me about union, not anybody.

Q. Then you don't—

A. No, all I say is, what you are doing, and I watch.

989 Q. You watch them but you don't say anything?

A. That is all.

Q. Did you ever talk to anybody about passing out application cards for the union?

A. No, I don't talk with anybody that makes application in the union.

Q. Did you ever see anybody making application for the union in the shop?

A. All I see, the men that work for the C. I. O., you know, but I don't know; I get it from my men, own men that work with me on the bench in my department, sign with the C. I. O. but I don't say nothing.

Q. Do you know, or were you ever told by the superintendent that the men that sign—that the men are not supposed to sign up?

A. Never, no, I don't talk with the superintendent at all.

Q. Did you go to the meeting at the Medford Hotel downtown?

A. Yes, sir.

Q. Did you hear the lawyer speak?

A. Yes, sir.

Q. Did you hear the lawyer tell the foremen not to say anything about unions?

A. While the lawyer talked, he don't say much, because I don't understand English, don't talk very well. I never go to American school, you know, but we all talked, but I
990 don't understand much what he said.

Q. Did Mr. Falk ever talk to you and tell you that if

you ever see anybody signing up for the union, or if you see anybody passing out application cards, you should stop that?

A. No, Mr. Falk don't say nothing about the Independent Union or the C. I. O. union, he don't say nothing at all.

Q. How about your superintendent?

A. I don't talk with him, he don't talk to me at all.

Q. Who is the foreman in your department?

A. In my department?

Q. Yes.

A. He is sick, you know.

Q. What is his name?

A. Charlie Ferley.

Q. You say he is sick now?

A. He is sick, yes.

Q. How long has he been absent from work?

A. About three months.

Q. You are taking his place while he is away?

A. Well, I take care of my department, you know.

Q. Do you know Walter Bartelmey?

A. No, I don't know him at all.

Q. He works in your department?

A. Works in my department?

Q. Bartelmey.

991 A. Bartelmey what?

Q. Bartelmey.

A. No, I don't know that kind of a name.

Q. Mr. Engelhard: He may have a nickname.

Q. (By Mr. Rissman.) Did you ever talk to anybody who works in any other department about unions?

A. I don't talk to nobody about unions at all, you know. All I have ever was an argument with one man because the man was bothering my men all the time you know. I told his department that this man should stop it.

Q. You mean you had an argument with him?

A. Who?

Q. You and this man had an argument?

A. Yes, Mr. Casini.

Q. What department does he work in?

A. He worked on the floor.

Q. Who is his foreman?

A. His foreman is Walter Berry.

Q. What did this man do in your department that made you have an argument with him?

A. Well, I told his foreman not to let him do it, and he

argued with me, he called me names, you know—well, a little couple of words, and he got over everything, he was my friend again; we were always good friends again, and everything was O. K.

992 Q. What was he doing in your department?

A. Doing?

Q. Yes.

A. Bothering some of my men, you know. He never worked at all, you know, going around to sign for the C. I. O.

Q. And you had an argument with him about that?

A. Yes, sir.

Q. Did you ever say to one of the men in the next department to you "Why don't you join the Falk Union instead of the C. I. O."?

A. No, I never talk to nobody.

Q. You never said anything like that?

A. No, because I got to keep my business, you know; I don't talk to nobody to join the Independent Union.

Q. Did you ever tell anybody not to join the C. I. O.?

A. No.

Q. Never?

A. I don't talk to nobody.

Q. Do you know how many men in your department joined the C. I. O.?

A. Pretty near all, all I got today but two or three, and I don't say nothing to the men to sign the C. I. O., I keep my own business.

Q. You let them sign up?

A. Yes.

993 Q. You don't care if your men sign up for the C. I. O. or the Independent Union?

A. No.

Q. That is none of your business?

A. No.

Q. Do the men in your department wear their C. I. O. buttons?

A. Some that got them.

Q. How many buttons are there in your department, would you say?

A. Well, we have got about two or three men that have got buttons, and other men don't wear them no more, I don't know why.

Q. Did you ever ask them why they don't wear them?

A. No, I don't ask them at all.

Q. Did they ever tell you?

A. No.

Q. Did anybody ever tell you why the men don't wear their buttons?

A. How?

Q. Did anybody ever tell you why the men don't wear their buttons?

A. No, I don't know; that isn't my business, if they have got a button or not. I take care of my own work, my own business.

Q. Do you know if the men are afraid to wear their buttons?

994 A. How?

Q. Do you know if they are afraid to wear their buttons?

A. Nobody is afraid, I don't know if they are afraid or not, anybody that belongs to the C. I. O., I don't know if he is afraid or not.

Q. Nobody ever told you they were afraid?

A. No.

Q. And if you saw men with C. I. O. buttons on, you would not care about that?

A. No, sir.

Q. You would not tell them to take them off?

A. No.

Q. Now, Mr. Sagalino—

A. Yes, sir.

Q. —did you ever take any of the men from your department into the timekeeper's office to ask them to join the Independent Union?

A. In the timekeeper's office?

Q. Yes.

A. No, I never taken nobody in the office.

Q. Where did you take them?

A. I didn't take them, I don't know that I take them.

Q. Did you take anybody in the place?

A. I don't take anybody, I don't know anything about it.

Q. You don't know anything about it?

995 A. No, I don't take nobody for the C. I. O. or the Independent Union.

Q. Did you ever talk to any men or take any men to the timekeeper's office for any purpose?

A. Well, if they wanted to go in the timekeeper's office,

you know, they got a man, you know, if he want to sign in the C. I. O.

Q. Did you ask him what he wanted to sign?

A. I don't know what he wanted to sign, or not.

Q. Did you ask him what he wanted to sign?

A. I don't ask him to sign for nobody.

Q. Just tell us—

A. I don't know what he sign, I never saw it, I don't say anything; I keep my business because that is the law in the shop, anybody in the shop that has got any business.

Q. What were you telling us just now about taking men to the timekeeper's office? You said some of them went in there to sign?

A. A couple sign for the Independent Union.

Q. In the timekeeper's office?

A. I don't know if it was in the timekeeper's office, but a couple of men sign.

Q. You saw them sign?

A. How?

Q. You saw them sign?

996 A. I don't see them sign, but they go in there to sign.

Q. In the timekeeper's office?

A. Yes, sir.

Q. You say—

A. I don't say they went in the timekeeper's office, but I know I got two or three men, that all the rest of them belong to the C. I. O.

Q. Did you see these men go into the timekeeper's office?

A. I don't see them go in; I don't see where he signed. I keep my own business.

Q. How do you know that two or three men in your department joined the Independent Union?

A. Because they don't believe in the C. I. O.; I know some men in the Independent Union.

Q. How do you know that? —

A. He told me himself.

Q. Did you ask him?

A. No, he talked, you know.

Q. That is what I mean, in the morning, after work or at dinner time?

A. Yes.

Q. You talk to the men?

A. Only about three men, that is all; the rest of them all belong to the C. I. O.

Q. Did you talk to them about the C. I. O.?

997 A. Me?

Q. Yes.

A. No, I don't, I don't talk about that.

Q. Did you talk to them about the Independent Union?

A. How?

Q. Did they tell you they were members of the Independent Union?

A. No.

Q. Did some of them tell you they were members of the C. I. O.?

A. Sure, men can belong to the C. I. O.

Q. You saw them—you saw some of them sign for the Independent Union?

A. He don't sign in there, in front of me. I was attending to my job; I work, he don't sign on the job; he signs away, I don't see at all. When the C. I. O. men sign, he don't show me at all.

Q. Now, these men that you talked to, that belong to the Independent Union, the two or three, did they tell you where they signed the cards?

A. No, they don't tell me.

Q. I don't—

A. No.

Q. Did you see anybody sign cards in the timekeeper's office?

A. No, I don't see.

998 Q. Did you ever see anybody go into the timekeeper's office?

A. I see two or three men, they go there in the timekeeper's office.

Q. You saw that?

A. Yes.

Q. At the time you had the argument with this one man who was bothering your employees, what did you tell him?

A. I don't tell him anything, I don't tell him nothing. He said to me, you told the foreman, and I says, "Yes."

Q. You did not threaten him?

A. We had a couple of words.

Q. What kind of couple of words did you have?

A. He says "You told the boss." I said "Yes." He said "Did you do it?" I said "Yes, I did it."

Mr. Rissman: He says that—

Mr. Engelhard: Just a moment. I don't know what he

said and I don't think you do either. Suppose you ask the question again.

I don't accuse you of trying to change it, but I don't think any of the five of us understood what he said. He talks so fast and so rapidly, that it is hard to get.

Q. (By Mr. Rissman.) You tell us very slowly so that this man can write it down.

A. You asked me a lot of questions—

999 Trial Examiner Batten: Just wait until he gets through asking the question, and maybe after you hear it, you can answer.

The Witness: All right.

Q. (By Mr. Rissman.) You tell us very slowly.

A. O. K.

Q. Just what that man said to you and what you said to him when you had the argument.

A. What I said to him?

Q. Yes, and tell us slowly.

Mr. Engelhard: The exact words if you remember.

The Witness: Well, the man, you know, he told the boss what I do because he bothered the men all day long, he goes to one place, you know, and I said to the foreman and the foreman tell him, he come to me, and he says "Did you tell Walter so and so?"

I says "Yes", and that was all.

Q. (By Mr. Rissman.) That was all you said?

A. That was all.

Q. When the men, the two or three men told you that they are members of the Independent Union, what do you say to them?

A. What do I say?

Q. Yes.

A. Nothing.

1000 Q: You just kept quiet?

A. Quiet, I was keeping my business, I take care of my business; I left every man, if he wants to go, to go.

Q. And when the men tell you that they belong to the C. I. O. what do you tell them?

A. Nothing.

Q. You keep quiet too?

A. Yes.

Mr. Rissman: That is all.

Mr. Engelhard: That is all.

Trial Examiner Batten: Mr. Clark?

Mr. Clark: I have nothing.

Mr. Goldberg: No questions.

Trial Examiner Batten: All right. You are excused, then.
(Witness excused.)

Mr. Rissman: Mr. Greget.

LESLIE GREGET, a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination.

Q. (By Mr. Rissman.) Will you state your name please?

A. Leslie Greget.

Q. What is your first name?

1001 A. Leslie.

Q. You are employed by The Falk Corporation?

A. Yes, sir.

Q. How long have you been employed by the Falk Corporation?

A. 18 years.

Q. In what capacity are you now employed?

A. Machine division.

Q. What is your work?

A. Machinist.

Mr. Engelhard: Will you talk a little louder, Mr. Greget, so that we can hear you?

The Witness: I beg your pardon, if Mr. Rissman would stand back a little bit further, I would naturally talk louder.

Q. (By Mr. Rissman) Do you object to my standing so closely?

A. Yes, sir.

Q. And you a member of any labor organization?

A. Yes, sir.

Q. Which one?

A. The Independent.

Q. How long have you been a member?

A. Ever since it started.

Q. You were one of the organizers?

1002 A. Yes, sir.

Q. Were you a member of the former Works Council?

A. Yes, sir.

Q. What department do you represent?

A. Machine division.

Q. How long were you a representative on the Works Council, Mr. Greget?

A. Two years.

Q. Do you hold any office in the Independent Union?

A. No, sir.

Q. You are a member of any committee?

A. No.

Q. Were you present, Mr. Greget, at the last meeting of the Works Council on April 8th, 1937?

A. No.

Q. Were you present at the meeting of the employees of the corporation on April 12th, 1937?

A. I was.

Q. Were you working days at that time?

A. I was.

Q. How were you notified of that meeting?

A. I was notified by one of my fellow employees.

Q. By what kind of employee?

A. My fellow employees.

Q. What was that employee?

1003 A. John Brever.

Q. When did he notify you?

A. He notified me in the morning of the meeting.

Q. Before he notified you, did you know of any meeting that was to take place at that time?

A. I had talked to him several times before that about a meeting.

Q. When and where did you talk to him?

A. I have talked to him in the plant.

Q. Did you know when he spoke to you on the morning of April 12th the purpose of the meeting?

A. I don't remember.

Q. Did you know when he spoke to you before that meeting, when you spoke to him about such a meeting, the purpose of the meeting?

A. I had talked to him several times before that in regard to an Independent Union.

Q. And did you know when you came to the meeting on April 12th that was to be a meeting for the Independent Union?

A. I don't believe I knew exactly what the meeting was for.

Q. Did you have any conception of why you were going to a meeting on April 12th?

A. I surmised that, yes.

Q. You surmised what?

A. That was the purpose of it, the purpose of the 1004 meeting, for discussing an Independent Union.

Q. Had you ever discussed an independent union of any kind of union prior to April 12th, 1937 with anybody besides the man you just mentioned?

A. Yes, sir.

Q. With whom?

A. I discussed that back in 1933 when our Works Council was first organized.

Q. Between April 1st, 1937 and April 12th, 1937 did you ever discuss it with anybody?

A. Not with anyone outside of John Brever.

Q. Did you ever discuss it or hear it discussed by Mr. Falk, by Mr. Richard Falk or Mr. Harold Falk,—either one?

A. By either.

Q. You mean "by neither"?

A. By "neither", yes, sir.

Q. Did you ever discuss an independent union with any foremen between April 1st and April 12th?

A. I did not.

Q. Or since April 12th?

A. No, sir.

Q. On the day you were notified by this fellow employee to attend the meeting of April 12th, what arrangement, if any, did you make with your foreman to be absent from your work?

A. I told the foreman at the time that I was going to 1005 attend a meeting?

Q. Who was your foreman?

A. Mr. Senn.

Q. Did you tell him what kind of meeting?

A. I did not.

Q. Did he ask you?

A. No, sir.

Q. He permitted you to leave your work?

A. Yes, sir.

Q. Did you hear the testimony this morning of Mr. Adamski?

A. I did.

Q. All of it?

A. I did.

Q. Do you recall the statements of Mr. Harold Falk at this meeting of April 12th?

A. I do.

Q. Will you tell us what those statements were?

A. Well, he was asked in regard to that raise that was given to us May 1st instead of June 1st.

Q. Who asked him?

A. His name is William Stickman.

Q. What did William Stickman ask Mr. Falk?

A. As I remember, he said that the boys out there would be more satisfied if they were given that raise May 1st instead of June 1st for the shop. that they felt they had it 1006 coming, due to the cost of living going up so rapidly.

Q. Do you recall anything that was said by John Wilfer at that meeting?

A. I do not.

Q. Tell us who Mr. Stickman is.

A. Mr. Stickman is a welder in the foundry department.

Q. A former member of the Works Council?

A. Yes, sir.

Q. Is he now a member of the Independent Union?

A. I believe he is.

Q. Does he hold any office in the Independent Union?

A. I don't remember, I don't know.

Q. Don't you know?

A. I don't know for sure.

Q. What else did Mr. Falk say in addition to what he said about the raise?

A. Nothing that I can remember at the present time.

Q. Did you hear everything he said?

A. I did, I believe I did.

Q. Where were you sitting or standing when he was speaking; how far from him?

A. Oh, I would say a distance of about 20 feet.

Q. Did you have any difficulty in hearing him?

A. I did.

Q. Could your memory be refreshed as to what he said there?

1007 A. I don't think so, because it was a very noisy spot where we sat.

Q. But do you remember that Bill Stickman said something about advancing the raise from June to May because of the high cost of living.

A. Yes, sir.

1008 Q. You did not hear John Wilfer say anything?

A. No, sir.

Q. Did you see John Wilfer get up and say anything?

A. I don't remember.

Q. How long did Mr. Falk speak?

A. Oh, just a few minutes.

Q. Did Mr. Falk say anything about unions?

A. I don't remember.

Q. Did Mr. Falk say anything about the A. F. of L.?

A. I don't remember.

Q. Did he say anything about the C. I. O.?

A. I don't remember.

Q. Did he say anything about the Independent Union?

A. I don't remember.

Q. When did you forget?

Mr. Lamfrom: What was that question?

(The question was read.)

Mr. Lamfrom: What was that?

Trial Examiner Batten: The reporter will read the question, please.

(The question was re-read.)

Mr. Lamfrom: I think that is a gratuitous insult, that no answer should be required. I don't believe that the witness should be compelled just because he seems to be speaking of innuendo, that he is forgetting.

1009 Trial Examiner Batten: Well—

Mr. Lamfrom: This is—

Trial Examiner Batten: The question may be stricken.

You may ask the question more politely.

Q. (By Mr. Rissman.) Have you forgotten what was said by Mr. Falk aside from what you have already related to us?

A. Well you repeat that question, please.

Mr. Rissman: Read the question.

(The question was read.)

A. Yes, I have.

Q. (By Trial Examiner Batten.) Are you certain that he did say something else?

A. He probably did say something else, but I didn't hear it, I didn't understand it.

Q. (By Mr. Rissman.) Which was it, you didn't hear it or you didn't understand?

A. Well, I probably heard some remark, but I didn't understand.

Q. What was the remark you heard but didn't understand?

Mr. Engelhard: How can he testify to that, if he said he didn't hear it and couldn't understand it? He said it was a very noisy place, and he didn't understand.

Q. (By Trial Examiner Batten) Which was it, that you didn't understand what he said or you didn't hear what he said?

1010 A. I didn't hear. I will say that I didn't hear what he said.

Q. (By Mr. Rissman) What was finally done at the conclusion of that meeting, if you remember?

A. That was on the first day?

Q. The first day.

A. There was nothing done the first day.

Q. When were you appointed as a member of the committee to see Mr. Falk about getting an attorney for the Independent Union, was that the first day or the second day?

A. The second day.

Q. The second day?

A. Yes, sir.

Q. Tell us about the meeting on the second day, where it was held and who was present? That was the day following April 12th.

A. It was held at the same place the first one was held.

Q. Yes. How were you notified of that meeting?

A. I was notified by our chairman of the first meeting.

Q. Who was the chairman of the first meeting?

A. John Wolf.

Q. Did you excuse yourself from your foreman?

A. Yes, sir.

Q. Without any objection from him?

A. Yes, sir.

1011 Q. Did you tell the foreman where you were going?

A. I didn't tell him where I was going, because I attended other meetings there. I notified him quite often.

Q. Did he ask you where you were going?

A. He didn't ask me where I was going.

Q. Just what did you tell him when you asked permission to leave your work?

A. I told him I was to attend a meeting.

Q. By this time it was no longer a Works Council meeting, but a meeting of men who were creating an independent union, is that right?

A. That was the sole purpose of the meeting at that time.

Q. Who spoke at that second meeting?

A. Our chairman.

Q. Who?

A. Our chairman.

Q. Who is he?

A. John Wolf.

Q. Who was "our chairman"?

Trial Examiner Batten: John Wolf, he said.

Q. (By Mr. Rissman.) "Our chairman, John Wolf."

What did he say?

A. Well, we discussed matters regarding an independent
union.

Q. How to create it and all of that?

12 A. Yes, sir.

Q. Did any discussion came up as to the selection of
an attorney?

A. Yes, sir.

Q. Were the names of attorneys suggested?

A. Not at that meeting, no.

Q. Was a committee to see Mr. Falk appointed at this
meeting, a committee to see him about an attorney?

A. There was a committee appointed by Mr. Wolf to get
an attorney?

Q. Who was the committee?

A. The committee was John Mitchka, Stanley Adamsky
and myself.

Q. Whose suggestion was it of the members of that com-
mittee to go to see Mr. Falk about an attorney?

A. I believe it was mine.

Q. Just how did that come about?

A. We left the meeting at that time.

Q. Yes.

A. And I believe it was outside somewhere we discussed
the matter.

Q. When you say "we" you mean the three members of
the committee?

A. Yes.

Q. Go ahead.

013 A. And we were somewhat, oh, as I would say, "up
a tree", we didn't know which way to go or turn, it was
something new to us, and I believe I made the statement that
we would see Mr. Falk and probably he could make some sug-
gestion as to what attorney we could get at the time.

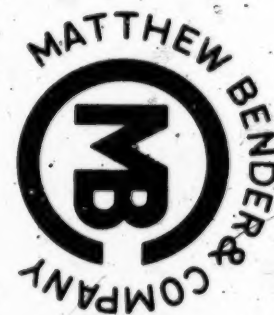
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Q. Were there any attorneys' names mentioned in the meeting where you three men were appointed?

A. I don't remember.

Q. Did you hear the testimony of Mr. Adamsky wherein he stated that the name of Mr. Joseph Padway was suggested?

A. Yes.

Q. Does that refresh your memory as to that?

A. It does not.

Q. The three of you then went to Mr. Falk's office?

A. We did.

Q. Tell us what happened there?

Trial Examiner Batten: Now, you heard of course—what is his name?

Mr. Rissman: Adamsky.

Trial Examiner Batten: Mr. Adamsky testify this morning?

The Witness: I did.

Q. (By Trial Examiner Batten) As to what happened at Mr. Falk's office?

A. Yes, sir.

1014 Q. Is his statement of what happened there substantially correct?

A. Well, it is a little different from what I recollect.

Q. Tell us how you remember it.

A. We went to Mr. Falk's office and we told him our purpose in being there.

Q. What did you tell him?

A. And I believe it was I that asked him if he couldn't help us out on some information regarding an attorney, that we had decided to go ahead and form an independent union.

Q. (By Mr. Rissman) Are there any other differences between your recollection of what took place and what Mr. Adamsky testified to this morning?

Mr. Lamfrom: I suggest, if the Examiner please, that the witness be permitted to testify what he remembers occurred there.

Q. (By Trial Examiner Batten) Will you tell us what transpired there?

Mr. Lamfrom: Yes, what you said, and what Mr. Falk said and what the others said. Just tell us what happened there.

Mr. Rissman: That is right.

The Witness: After we asked him for the information he hesitated for a moment; he said, "Well, I don't—"

Q. (By Trial Examiner Batten) What do you mean
1015 "he hesitated"?

A. Well, he wanted to, it seemed to me like, and he didn't want to give us the information that we wanted at that time.

Q. (By Mr. Rissman) Did he say he didn't want to or he was hesitant about giving it?

A. Then after thinking for a few moments he said, "Oh, I don't think there is anything wrong, I don't see any harm in it", and he mentioned two names that I remember.

Q. What are those names?

A. He mentioned Mr. Fish and Mr. Burke. When he said Mr. Burke's name, I said, "It is O. K. with me."

Q. Why did you say that? Had you heard of Mr. Burke before?

A. Yes, I had heard of Mr. Burke before.

Q. In what connection had you heard of him?

A. I heard of Mr. Burke before through an automobile accident that I had previously.

Q. Were you involved in that accident in any way?

A. I was.

Q. I see. Mr. Burke was attorney in that case?

A. He was not an attorney, only. I heard it was him through—

Q. Well, how did you know—

Trial Examiner Batten: I don't know as that is material.

Mr. Rissman: Well, I think it is.

1016 Trial Examiner Batten: How is it?

Mr. Rissman: I think it is material, if that fact—

Trial Examiner Batten: You mean how he happened to hear of Mr. Burke through an automobile accident?

Mr. Rissman: In what connection he heard of Mr. Burke.

Trial Examiner Batten: Well, I understand he testified it was in connection with an automobile accident, wasn't it?

The Witness: Yes, sir.

Q. (By Mr. Rissman) Did you know Mr. Burke?

A. No, sir.

Q. You had never met him before?

A. No, sir.

Q. You had just heard his name, or heard something about his reputation?

A. I heard something about his reputation; I also read about Mr. Burke in the paper.

Q. What did you read about him in the paper?

A. Well, different cases that he had some time back.

Q. Do you recall any particular cases, the type of cases?

A. It seems to me that he represented the Ward Allen cases at the time.

Q. Represented who, do you know?

A. I couldn't say who.

Q. Did he represent a labor organization?

A. I couldn't say.

1017 Q. Or did he represent the company?

A. I just remember reading his name.

Q. Do you recall his name in connection with any other type of cases?

A. I don't recall right now, but I read of it several times.

Q. When Mr. Falk mentioned Mr. Burke's name, you just go ahead and tell us what else occurred at that meeting in Mr. Falk's office.

A. Well, Mr. Falk and I believe it was Mr. Connell that put the call through.

Q. Who is Mr. Connell?

A. Mr. Connell is vice president of The Falk Corporation.

Q. Well, we are talking now about what occurred in Mr. Falk's office.

A. That is what I am—

Q. Then Mr. Connell was present, too?

A. Yes, sir.

Q. All right, go ahead.

A. And Mr. Connell put a call through and Mr. Falk talked to Mr. Burke over the phone.

Q. What did he say? Did you hear Mr. Falk's part of the conversation?

A. I did.

Q. What did he say.

A. He said that some of the boys from his plant are
1018 in the office—wanted to organize an independent union, and he would like to make an appointment for us at his convenience.

Q. What else did Mr. Falk say to Mr. Burke over the telephone?

A. The appointment was made; that was all that was said.

Q. For what time was the appointment made?

A. Ten o'clock the following day.

Q. After Mr. Falk completed the telephone conversation was anything else said at that meeting?

A. No, sir.

Q. The committee of three then left?

A. We did.

Q. Before Mr. Falk mentioned the name of Mr. Burke and the other gentleman you mentioned—

Mr. Engelhard: Fish.

Mr. Rissman: Fish.

Mr. Engelhard: Col. Fish, or I mean Gen. Fish.

Q. (By Mr. Rissman) The other gentleman—we won't go into his titles—was there any discussion as to what kind of lawyer you wanted?

A. I don't remember.

Q. (By Trial Examiner Batten) You mean you don't remember or you don't know of any such discussion?

A. I don't remember whether we discussed that or not.

Q. Do you remember whether there were any matters 1019 discussed other than those you told us about?

A. There was nothing outside of that.

Q. (By Mr. Rissman) Now, when you and the other two committeemen were discussing among yourselves the problem of a lawyer before you decided to visit Mr. Falk's assistant, did any names of attorneys present themselves to you three men?

A. Not at that time.

Q. Not one of the three of you could think of the name of a lawyer in the city of Milwaukee?

A. Well, I knew of a lawyer that I had in my automobile accident, but I didn't want to suggest his name for the sole purpose of—I wouldn't have anyone else think for a minute that I was to get in on something, so I didn't suggest his name.

Q. But it was all right for Mr. Falk, the vice president of the corporation, to suggest the lawyer he knew, was it?

A. I think it was.

Q. It was improper for you, a member of the committee who was going to engage a lawyer, to suggest a name but not improper for the vice president of the company, who is in an adverse position to the union, to suggest the name of a lawyer?

Mr. Lamfrom: I submit that question is not based upon a proper foundation, and that that isn't what the witness testified.

1020 He said he knew some lawyer or had known one, and he didn't want to suggest him because he didn't want anybody to think he was in on it.

Now, that does not lead to the conclusion one way or the other as to whether he thought it was proper for Mr. Falk to suggest a lawyer and not proper for him, for reasons connected with apparently, as counsel has in mind, a question of nobody mixing in on account of—

Trial Examiner Batten: Of course, I think it is entirely immaterial whether this witness thinks it was proper or improper.

Mr. Lamfrom: Exactly.

Trial Examiner Batten: The Trial Examiner—if the facts show that Mr. Falk suggested a lawyer to the Independent Union, I think the Trial Examiner will be in a position to determine whether or not the circumstances of that suggestion of an attorney is in way way related to the issue in this case.

Mr. Lamfrom: That is the question.

Trial Examiner Batten: I mean if the fact is established that he did suggest a lawyer and that the union did engage that lawyer, I can draw the proper conclusions, if there are any, from those facts.

Mr. Rissman: The the further fact, if the Examiner please, that the men who were in charge of creating this independent union were solicitous as to whether or not the action and steps which they took in forming their union had the approval of the company.

Mr. Lamfrom: I don't think that follows.

Trial Examiner Batten: I don't think there is any evidence here of that. I am not so sure that even that is material to the issue in this case.

The material thing is, what action was taken by the corporation or its agents in furthering the purposes of the Independent Union; what things were done, what things were said. I think those are the material things to the issues.

I do not mean by my statement that I am excluding anything else.

Mr. Rissman: Naturally.

Q. (By Mr. Rissman) Following the selection of the attorney, and the necessary details of incorporating your union, your union had meetings at the North Avenue Auditorium?

A. We did.

Q. After holding the preliminary meetings on company property and on company time?

A. We did.

Q. Can you tell us how many meetings of your independent group were held on company premises and on company time?

A. I think there were meetings—

Q. And all the meetings since that time have been 1022 off of company property?

A. Yes.

Q. Directing your attention to the first meeting of your Independent Union at the North Avenue Auditorium were you present at that time?

A. I was.

Q. Do you recall when it was held?

A. The first meeting was held on a Sunday afternoon.

Q. April 18th, 1937?

A. About that time.

Mr. Engelhard: Now, just a moment, Mr. Rissman. Are you speaking of organization meetings or after the union was actually in existence?

Mr. Rissman: Probably both, I want to find out from the witness, I don't know.

Mr. Engelhard: Well, I know, but the witness probably can't distinguish between organization meetings and meetings held by the union itself after it was actually a union.

Mr. Rissman: Such a distinction is not necessary.

Trial Examiner Batten: I think he has testified there was a meeting held April 18th, is that right?

The Witness: Yes, sir.

Trial Examiner Batten: Of course, knowing there was a meeting I presume he can testify to what transpired in the meeting.

1023 Mr. Engelhard: Yes, but was that a union meeting in the sense that the union as an organization was meeting?

Trial Examiner Batten: We will find out when he tells us what happened.

Q. (By Mr. Rissman) What kind of meeting was that?

A. That meeting was for the sole purpose of getting members.

Q. It was after you had conferred with Mr. Burke at his office?

A. It was.

Q. And it was a meeting where the independent union, although not officially chartered, was in the process of organization?

A. Yes, sir.

Q. What part did you take in that meeting?

A. I took the floor for just a few minutes.

Q. What did you say?

A. I told them why we were there.

Q. Can you recall just exactly what you said?

A. Well, I told him that we were there to get members for our Independent Union, that was the purpose of being there that day.

Q. Were there any questions from the audience?

A. There was.

Q. Do you recall any of them?

A. I do.

1024 Q. Do you recall some of the questions directed to you?

A. I can.

Q. What were they?

A. Someone asked me from where we got our attorney?

Q. Do you know who asked that question?

A. I do not.

Q. Just one of the workers presumably?

A. Yes.

Q. Can you answer for the record?

A. Yes, sir.

Q. What was your answer to that question?

A. My answer to that question was, that I knew of Mr. Burke through an automobile accident that I had, and that was how we got in touch with Mr. Burke.

Q. Did you say anything about the fact that Mr. Falk had mentioned Mr. Burke's name to you?

A. No, sir.

Q. You concealed that from the audience?

Mr. Lamfrom: Now, I submit that is a conclusion. I think the witness may testify as to what he did and did not do, and the Examiner can draw his conclusions.

Q. (By Trial Examiner Batten) Why did you not advise the questioner that Mr. Falk had suggested Mr. Burke's name?

A. Well, I didn't even finish my statement at that time, there was such a wrangle and tangle there that I didn't
1025 even finish my statement.

Q. Your statement to the questioner that you had thought of Mr. Burke because of, or in connection with an automobile accident was untrue, was it not?

A. No.

Q. Well, you testified here that Mr. Burke's name was suggested by Mr. Falk. You never suggested his name to anybody, did you?

A. I did not.

Q. Then what was the question this man asked you, how did he ask you this question?

A. Well, I just exactly don't remember the question.

Q. Did you consider that your answer to him that you had suggested Mr. Burke because of an automobile accident, do you consider that to be true?

A. Well, I didn't finish my statement. I probably would have said—

Q. I don't care what you might have said, I am asking you was the statement you made true?

A. The statement I made was true, yes.

Q. (By Mr. Rissman) Don't you recall that when this member of the audience got up he said, "I have heard that Mr. Falk recommended the attorney for this organization, and I would like to know if that is true?"

Wasn't that the question that was put to you?

1026 A. I don't remember.

Q. Well, do you remember the question that was put to you?

A. Well, I answered the question the best I could.

Q. Do you remember the question?

A. Not exactly.

Q. Would you say that he did not ask it as I have indicated?

A. I don't remember the question exactly.

Q. Then why did you give us the question a while ago when I asked if any questions were put to you from the audience, you remembered it then, did you not?

A. Will you repeat that again?

Mr. Rissman: Will you read the question, please.

(The question was read.)

A. I remember the question put to me regarding, as to how we got the attorney.

Q. (By Mr. Rissman) And in that question wasn't there the statement that the information had been passed around that Mr. Falk suggested or recommended the attorney?

A. I don't know.

Q. Was there anything said in connection with that question about Mr. Falk or The Falk Corporation or the name Falk in any way whatsoever?

A. Not that I remember.

Q. Can you tell us now why in response to the question
1027 that you don't remember, you said that you knew of the attorney because of an automobile accident and you did

not say to them that the attorney was recommended by Mr. Harold Falk?

A. Well, I didn't mean by that, I didn't tell them that Mr. Falk recommended the attorney, I didn't mean anything by it. I just simply answered their question offhand as short as I could at the time.

Q. Can you tell us, as a man who has had experience in choosing attorneys and speaking to employees as a former representative of the Works Council, what effect it would have on the men at that meeting if you had told the truth that Mr. Harold Falk had recommended Mr. Burke as attorney?

Mr. Engelhard: That is objected to, your Honor. He is asking for a speculative answer.

Trial Examiner Batten: Well, I think the question is somewhat improper and rather difficult.

However, I think this witness had sufficient experience on the Works Council and in organization work, and so on, so that he at least ought to have some idea of what effect this might have had at the meeting and also the fact that he failed to mention this fact.

I think he may proceed with the answer to this question.

Mr. Engelhard: The further basis for the objection, if the Trial Examiner please, is this, that he several times while 1028 testifying here has tried to make it clear that there was quite a hub-bub in this audience and it was impossible for him to conclude the statement he was making at that time, several times he attempted to make that statement.

Trial Examiner Batten: Assuming it was impossible for him to finish, I think he can still answer this question as to what effect it might have on those in attendance in this meeting if he had advised them that Mr. Falk, the vice president of this corporation, had recommended the lawyer who was employed by the independent union.

Mr. Lamfrom: I think that question should have in it also, if you will permit the further fact, that the committee had asked Mr. Falk to suggest an attorney.

Trial Examiner Batten: Well, I have no objection to that.

Q. (By Mr. Lamfrom) Now, what effect, if I may put it this way, just as an illustration, what effect, if any, do you think your answer would have had upon the men there if you had, in addition to what you have stated—

Mr. Rissman: What, stated—

Mr. Lamfrom: Just a minute, you will have your turn.

Q. (By Mr. Lamfrom) —that in addition to what you

stated, you had stated that at the request of your committee Mr. Falk had suggested an attorney to you, and among the two names he suggested to you was Mr. Burke?

1029 Mr. Rissman: I object to counsel's intrusion in my direct examination. He can make such objection as he wishes and we will have a ruling upon it.

Trial Examiner Batten: Will you please read the question I asked?

(The record was read as follows:

"Assuming it was impossible for him to finish, I think he can still answer this question as to what effect it might have on those in attendance in this meeting if he had advised them that Mr. Falk, the vice president of this corporation, had recommended the lawyer who was employed by the independent union.

"Mr. Lamfrom: I think that question should have in it also, if you will permit the further fact, that the committee had asked Mr. Falk to suggest an attorney.

"Trial Examiner Batten: Well, I have no objection to that.")

Trial Examiner Batten: You may answer that question.

The Witness: I don't think it would have any effect.

Q. (By Mr. Rissman) Do you think it would have any effect on the members there if they knew that the union was not as independent as its name implies, but that it was dependent upon the company for, among other things, the selection of its attorney?

Mr. Lamfrom: That is objected to.

1030 Trial Examiner Batten: I will sustain the objection to that question.

As I have said frequently before, I think the Trial Examiner is in a position to judge what effect these various things may have and draw proper conclusions from them.

Q. (By Mr. Rissman) Don't you know as a matter of fact, that the reason you did not state at that meeting that Mr. Harold Falk recommended or suggested the attorney was because you felt that if the employees knew that they would not favor the Independent Union?

A: I never thought of it for one minute.

Q. Then why didn't you give a truthful statement in response to the question?

A. What question?

Q. The question put to you as to how the attorney was obtained.

A. Because it was so noisy up there at the time I didn't have a chance to finish my statement.

Q. It was quiet enough for you to say you knew the attorney through some experience you had, wasn't it?

A. Yes, and as soon as—

Q. Just a moment.

Mr. Lamfrom: Let him finish.

Q. (By Mr. Rissman) Go ahead.

A. Just as soon as I began talking, I didn't say but a few words, there was so much noise up there that I never
1031 even had a chance to finish my statement.

Q. When you went to tell them that Mr. Harold Falk had something to do with it, all of a sudden it became noisy?

A. I don't know whether I was going to tell them that or not.

Q. Did you have any intention of telling them that?

A. I don't know what was on my mind.

Q. Then you had no intention of telling them that Mr. Falk had anything to do with the selection of the attorney?

A. I probably did and probably didn't.

Q. Well, you did or you didn't?

A. I don't remember.

Q. (By Trial Examiner Batten) Well, if the matter wasn't on your mind at the time you couldn't have very well told him if it had been quiet, could you?

A. Well, I probably would be able to tell them if it was quiet; I don't remember what I had on my mind at this time.

Q. You testified that the matter wasn't even on your mind at the time.

Now, would you have told them something even had it not been on your mind, that wasn't on your mind?

A. I probably would have said more at the time, yes.

Q. (By Mr. Rissman) Mr. Gregert, after the selection of the attorney suggested by Mr. Falk did you have any conversation with any of the employees who were active in
1032 forming the Independent Union, as to what kind of answer would be made if anybody asked where the attorney came from and who recommended him?

A. No.

Q. Do you recall that in the meetings held on the subject after Mr. Burke was selected, it was discussed among you men that you would have to concoct some kind of a story to tell the employees if they became inquisitive as to where you got the attorney?

A. No.

Q. You recall at that time Mr. Harold Landrey, who was one of the employees engaged in that discussion, said, "You fellows can tell what you want to, but if anybody asks me I am going to tell them the truth"?

A. No, I don't.

Q. Would you say that didn't happen?

A. I would.

Q. You deny that it happened or, you don't remember it happening?

A. I don't remember it.

Q. Did you ever discuss with anybody prior to the meeting at the North Avenue Auditorium what answer you would give to the question regarding the selection of the attorney?

A. No, I did not.

Q. Did you ever think about it?

1033 A. No, sir.

Q. Did anybody ever talk to you about it?

A. No, sir.

Q. Why did you feel it improper to tell the employees at the meeting at the North Avenue Auditorium that Mr. Harold Falk selected the attorney or suggested the attorney?

Mr. Engelhard: Now, he did not testify he felt there was anything improper and I object to putting words in the witness' mouth, your Honor, that he has not testified to.

Trial Examiner Batten: I will sustain the objection to that question.

Q. (By Mr. Rissman) Do you think it would have been improper to tell the employees that Mr. Harold Falk recommended the attorney?

A. I do not.

Q. Then why didn't you tell me?

Mr. Engelhard: I submit, your Honor, he has answered that question three or four times why he didn't tell them.

Mr. Lamfrom: Let him answer it again, if counsel would like to have repetition.

Trial Examiner Batten: You may answer the question.

The Witness: I did not tell them because that question was never put to me at any other time.

Trial Examiner Batten: What question?

The Witness: How we obtained the attorney.

1034 Q. (By Mr. Rissman) Or who recommended him and where he came from.

A. No, sir, that question was never put to me at any other time.

Q. I mean at that time, at the North Avenue Auditorium on April 18th.

A. Why, I didn't tell anyone about that?

Q. (By Trial Examiner Batten) The question is, why didn't you tell them at this meeting that Mr. Falk had recommended an attorney?

A. Well, as I stated before, it was noisy there, that I couldn't finish my statement at the time; I didn't say any more after that.

Mr. Rissman: I have no further questions of this witness.

Cross-Examination.

Q. (By Mr. Lamfrom) I suppose that when Mr. Harold Falk, you and the other members of the committee discussed this matter of an attorney—you remember that meeting—that Mr. Falk called you right up to him and whispered in your ear, "Now, if anything is ever said about the appointment or recommending of an attorney you must be sure to say to the boys that I did not recommend him to them."

Mr. Rissman: I object to the question. We are not interested in what Mr. Lamfrom supposes. If he will ask a 1035 question the witness may answer it.

Trial Examiner Batten: I presume that in view of the breadth of the matters we have covered heretofore some latitude will be permitted. However, I do feel that Mr. Lamfrom's question is a little bit—carrying it out a little bit.

Mr. Lamfrom: Well, I know what you have in mind, Mr. Trial Examiner, but I merely want to give counsel just a little bit of a concrete illustration of the upbuilding of suspicious circumstances out of nothing, of which he is so fond of doing.

Q. (By Mr. Lamfrom) Did Mr. Harold Falk—we will strike out the question.

Did Mr. Harold Falk at this interview you had with him, with the rest of the committee, requesting him to suggest as attorney, make any statement to you or any of the other members of the committee that you heard, that if anybody should ask them whether or not he suggested the attorney or how you come to get the attorney, that you should not say that he suggested the attorney to you?

A. No.

Q. Did anyone else at any time say to you, "If the boys inquire as to how you engaged the attorney, that you should not say that at your request Mr. Falk suggested the attorney to you"?

A. No.

1036 Q. (By Mr. Engelhard) Who first—

Mr. Rissman: Well, I am going to object to the double cross-examination.

Mr. Lamfrom: Well, there is some latitude. When one of the attorneys can't think of everything, he would like to have a little assistance.

Mr. Rissman: I will grant that.

Q. (By Mr. Engelhard) Who first conceived the idea among you men who were either members of the Works Council at the time this transpired or who were former members of the Works Council, about setting in motion the machinery for organizing an independent union? Who among all of those men do you give the credit for conceiving the idea?

A. There is only two that I would say.

Q. Who are they?

A. First of all, it was my idea when we first started the Works Council. At that time I spoke to the Works Council about it and they disagreed to it, for the purpose of the work being so slack at the time that the men didn't have sufficient money to pay their dues with, and at that time it was dropped. We probably spoke of it here and there, but nothing come of it at that time.

Q. Now, with reference to the month of April or the latter part of March or any time since the first of January, let's take the period of 1937, how did it happen that you men
1037 started talking about the formulation or rather, forming an independent union? What had happened that caused you men to think about organizing an independent union?

A. Well, I was very much in favor of organizing a group of our own, because I figured that we could have more favorable working conditions.

Q. (By Trial Examiner Batten) The question was, what happened to start this thing in motion?

A. I see, I beg your pardon.

Trial Examiner Batten: As I understand the question.

Mr. Engelhard: Yes, what happened.

Trial Examiner Batten: What occurred?

The Witness: I beg your pardon. I went to John Brever several times about six week before the union was organized, and talked it over with him and got his idea on it, and then just as soon as the company unions were outlawed I asked him if he wouldn't call a meeting. He being on the Works Council

at the time, I thought it would be a whole lot easier for him to do it than myself.

Q. (By Mr. Engelhard) Now, you say that just as soon as the company unions were outlawed, you have reference to the fact that sometime in March the Senate of the State of Wisconsin had passed what is known as the Severson Act and that subsequently the House passed it, and that on the 15th the Governor signed it, you knew that the Severson Act 1038 was to become a law in the State of Wisconsin?

A. I did.

Q. That was common knowledge everywhere?

A. I did.

Q. So you knew then that the Works Council would become an illegal organization under the Wisconsin law?

A. I did.

Q. During the time that the Severson Act was being discussed in the newspapers and among people generally outside, you and John Brever talked about organizing an independent union?

A. That—

Trial Examiner Batten: I don't think he said that at all, that he had this discussion at the time these other things were occurring in the paper.

Mr. Engelhard: I will ask him.

Trial Examiner Batten: He didn't say any such thing.

Mr. Engelhard: I will ask him.

Q. (By Mr. Engelhard) Were your discussions held with John Brever about organizing an independent union about the time, while these discussions were going on?

A. Yes.

Q. You were satisfied and so were other of your fellow employees, that that law was going through?

A. Yes, sir.

Q. Now, you discussed organizing an independent 1039 union with John Brever. Did you before the meeting of April 12th discuss it with other men and feel them out as to how they felt about it?

A. I did.

Q. Who were some of those other men?

A. Well, they were men that were working right near me here.

Q. Will you mention their names?

A. Harvey Walters.

Q. Harvey Walters?

A. And Leslie Charboulet.

Q. Any others?

A. There probably were others at the time but I just don't recollect.

Q. Did you discuss it with other members of the Works Council besides John Brever?

A. Not as the Works Council at the time, they were former members of the Works Council.

Q. You discussed it with several of the former members of the Works Council?

A. I did.

Q. You requested that John Brever call a meeting?

A. I did.

Q. Did he agree with you that such a meeting should be called?

A. He did.

1040 Q. Did you discuss calling a meeting with others besides John Brever, as to whether a meeting ought to be called?

A. I did.

Q. Who were some of those men?

A. They were former men from the Works Council and members of the Works Council at the present time.

Q. Name some of those men with whom you discussed calling another meeting?

A. I don't believe I got that question just right before that.

Q. I asked you whether or not besides discussing calling a meeting for the purpose of discussing among the men the formation of an independent union, you requested other men or rather asked other men whether or not they thought it would be a good idea to have a meeting?

A. Yes.

Q. Who were some of those men?

A. One was John Wilfer.

Q. John who?

A. John Wilfer.

Q. Was he the man that was on the stand here this morning?

A. Yes, sir.

Q. Who else?

A. I don't remember.

1041 Q. Now, did John Wilfer, Harvey Walters and this man you told us before, Leslie Charboulet, did they think it would be a good idea to have a meeting?

A. I talked with them about organizing an independent union.

Q. But not holding a meeting?

A. I did not.

Q. Now, when you talked to John Brever about calling a meeting did you and he determine on the date of the meeting?

A. No.

Mr. Rissman: If the Examiner please, I am going to object to the form of the examination.

The witness may state his conversations with these various persons, but I do object to the testimony being given by Mr. Engelhard, and the witness merely assenting to or denying the testimony.

Mr Engelhard: This is cross-examination and he is your witness.

Trial Examiner Batten: Read the question, please.

(The record was read.)

Trial Examiner Batten: I think that question was answered.

Mr. Rissman: Yes, but I object to the general lines of examination.

Trial Examiner Batten: You may proceed. If you have any objection to any particular question, Mr. Rissman, that is at least, if you will make your objection I will rule on 1042 it.

Mr. Rissman: I will.

Mr. Engelhard: I thought yesterday it was agreed on cross-examination we would be allowed to ask leading questions.

Trial Examiner Batten: I am just saying if Mr. Rissman has objection to a particular question, if he will make it at the time I will rule upon it.

I believe we will recess for ten minutes.

(A short recess was taken.)

Mr. Lamfrom: Here, Mr. Clark, here is a copy of the answer to the intervening petition.

Trial Examiner Batten: I believe we are ready to proceed, gentlemen.

The Examiner has received the answer of the respondent The Falk Corporation to the amended petition for intervention by the International Union of Operating Engineers, and I assume there is no objection to its being marked Respondent's Exhibit No. 4 and being received in evidence?

Mr Rissman: No objection.

Trial Examiner Batten: If there is no objection, it will be so received.

(Whereupon, the document above referred to was marked RESPONDENT'S EXHIBIT NO. 4 and received in evidence.)

Mr. Engelhard: Will the reporter read back the last 1043 question.

(The record was read.)

Q. (By Mr. Engelhard) Did you talk about the advisability of having a meeting with John Wolf?

A. I did not.

Q. Or with Carl Menz?

A. I did not.

Q. Or with Trost?

A. No, sir.

Q. Or with Wilson?

A. No, sir.

Q. Now, when the meeting convened on the 12th of April, that took place where?

A. Below the hospital.

Q. What are the physical surroundings there?

A. The chemists' laboratory is upstairs.

Q. And what is downstairs?

A. Downstairs there is some machinery downstairs, off to one side.

Q. Does that machinery run?

A. It does.

Q. And did it run while you were having the meeting there?

A. Well, there was some of it stopped at the time, but there was still noise there from other machinery.

Q. What kind of machines are they?

1044 A. I couldn't say.

Q. Did they make—

A. A humming noise.

Q. A humming noise?

A. Yes, sir.

Q. How many men were there at that meeting? Well, I believe there were 23. What time did the meeting start?

A. It was early in the afternoon.

Q. What was the first thing that was done at that meeting after you arrived?

A. The first thing we did was elect our chairman?

Q. Who was that?

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A. John Brever.

Q. Then what occurred?

A. Well, he opened the meeting by telling the boys why we had assembled there that day.

Q. I didn't get that?

A. He opened the meeting by telling the boys why we were assembled there that day.

Q. What did he say?

A. That we were there for the purpose of organizing an independent union.

Q. Was there any discussion after he made that announcement?

A. Yes, I believe there was.

Q. Who engaged in that discussion?

1045 A. Well, most everyone there had a few words to say at that time.

Q. Was it a formal meeting or was it conducted in a formal manner, if you know what I mean?

A. I know what you mean, but we didn't really get down to actual business; there was quite a bit of discussion at first, everybody seemed to be talking at one time.

Q. What was the nature of the talk that was going on?

A. Well, it was in regard to unions.

Q. What kind of unions?

A. Labor unions.

Q. Can you recall what discussions were had in regard to labor unions?

A. I could not.

Q. Was there any discussion there with reference to any of these men wishing to join the C. I. O.?

A. I don't remember.

Q. Or the A. F. of L.?

A. I don't remember.

Q. The prime discussion was whether or not the men wanted to join an independent union?

A. Yes.

Q. During the course of the discussion did anyone from The Falk Corporation come in?

A. Someone was asked to come in at the time, I don't
1046 just remember who it was; I believe it was Mr. Dick Falk.

Q. Mr. Rissman; Was this the first or the second meeting?

Mr. Engelhard: I am speaking of the meeting of April 12th.

The Witness: Oh, that was the first day?

Mr. Rissman: Yes.

The Witness: Well, I think Mr. Harold Falk was called in the first day.

Q. (By Mr. Engelhard) Do you know who from the company was at that first meetin'?

A. Well, I believe Mr. Harold Falk was the only one.

Q. You believe that?

A. Yes, sir.

Q. Is it not a fact that Mr. Dick Falk was there?

A. Well, it seems to me like he was there the second day.

Q. You are not sure, are you?

A. I am not sure, no.

Q. Was Mr. Connell there?

A. He was there at one of the meetings.

Q. Do you know which one?

A. I don't remember.

Q. Do you know how either one of the three came to either one of these meetings?

A. They were asked there by our chairman.

Q. How do you know that?

1047 A. Well, he had the say on the floor.

Q. When he sent someone out for either one of these men, were you present?

A. I was.

Q. Do you know who was sent out?

A. I don't remember who was sent to get them.

Q. But you do know that someone was sent out for either of these three, to get either one of these to the meeting?

A. Yes, sir.

Q. Now, do you know at this time which of the three men were at the first meeting, except you are sure of one, that Mr. Harold Falk was at the first meeting?

A. Yes.

Q. Was that at the beginning or end of the meeting?

A. Well, I would say it was about the middle of the meeting.

Q. That is your best recollection?

A. Yes, sir.

Q. It may have been toward the close of the meeting so far as you know?

A. It may have.

Q. Now, as you stated, at that meeting did—at that meeting the discussion of organizing an independent union arose. Was Mr. Landrey there?

A. Yes.

Q. Did he engage in the discussion?

1048 A. He did.

Q. Now, there were 23 men. Did I understand you to say 17 of them chipped in money at the end of the meeting?

A. That was the second day.

Q. That was the second day?

A. Yes, sir.

Q. How many men were present at the second day's meeting?

A. There must have been 17, because I had \$17 and everyone donated toward it.

Q. Was Mr. Landrey at that meeting the second day, the second meeting?

A. I don't remember who was absent.

Q. Well, do you know whether you got one dollar from him?

A. Well, if Mr. Landrey was there at the second meeting I got a dollar from him, yes.

Q. Now, I believe it was you that testified that the first meeting was on the 12th of April and the second meeting occurred on the 13th of April.

Was that in the morning or afternoon?

A. I believe it was in the afternoon.

Q. Was it understood at the conclusion of the meeting on the 12th that another meeting would take place the following day?

A. Yes.

Q. So you came together at the same place the following day?

A. We did.

Q. And it was at that meeting that the three of you were chosen to hire a lawyer?

A. Yes, it was.

Q. Correct?

A. Yes, sir.

Q. Now then, when you, Mr. Adamsky and John Mitchka, were chosen for that purpose you went over to see Mr. Falk?

A. We did.

Q. You stated that you first had a discussion to determine what you would do?

A. We did.

Q. And you decided to go to see Mr. Falk?

A. Yes, sir.

Q. Now, I understand you testified that after you had told Mr. Falk that it was the purpose of you men to organize an independent union and that you came to him for the purpose of asking his advice about a lawyer, that he mentioned Col. Fish, or was it Gen. Fish, and Attorney Burke, and that you said, "Mr. Burke is O. K."?

A. Yes, sir.

Q. Did anyone there at that time request Mr. Falk to call up Mr. Burke?

A. Right after I said Mr. Burke was O. K. with me, 1050 then he immediately called, or Mr. Connell got Mr. Burke on the phone.

Q. You say Mr. Connell got Mr. Burke on the phone?

A. Yes.

Q. Did Mr. Falk talk to Mr. Burke?

A. Yes, sir.

Q. And he made an appointment for you at ten o'clock the next day?

A. Yes, sir.

Q. Did you request Mr. Falk to have an appointment made?

A. Yes, sir.

Q. Did anyone of you three request Mr. Falk or Mr. Connell to call up Mr. Burke?

A. No, sir.

Q. Now, the next day you said about nine or ten men were down to see Mr. Burke?

A. Ten men.

Q. And you were among them?

A. Yes, sir.

Q. Was Mr. Adamsky there?

A. Yes, sir.

Q. And Mr. John Mitchka?

A. Yes, sir.

Q. And Mr. Landrey was there?

A. Yes, sir.

Q. And Mr. Kreger?

1051 A. Yes, sir.

Q. And who were some of the other men?

A. There was Harry Jones, John Wilfer—John Wilfer was not there.

There was Dan from shop 3, Dan Martin.

Did I mention Mr. Adamsky?

Q. I believe you did. How many of the men who were in

Mr. Burke's office the next day, being the 14th, that is correct, isn't it?

A. Yes, sir.

Q. April 14th.

A. Yes, sir.

Q. Are now to your knowledge officers and members in the

C. I. O. local?

A. I think there are three.

Q. Who are they?

A. Mr. Landrey, Mr. Kreger and it seems to me that there was one other that I just can't recall.

Q. But you know that Mr. Landrey is president of that local?

A. I heard so.

Q. And Mr. Kreger is what officer?

A. Vice president, I heard.

Q. And they were with you at that meeting in Mr. Burke's office?

1052 A. Yes, sir.

Q. Mr. Burke was hired that day, was he not?

A. Yes, sir.

Q. To represent the group?

A. Yes, sir.

Q. At that time, of course, no union had been formed?

A. No, sir.

Q. What were the terms of hire agreed upon, if you remember?

A. We asked Mr. Burke as to just what fees, if he had any idea, he would charge us, and he said that if the Independent Union would function he would charge us a fee or if it didn't function he would not.

Q. Did anybody ask him as to about how much it would cost for him to get out the necessary organization papers?

Mr. Rissman: I fail to see the materiality of that question, if the Examiner please. Mr. Burke's fees should not be the subject of inquiry here.

Mr. Engelhard: Well, I think it is material.

Trial Examiner Batten: Mr. Clark is here representing Mr. Burke's office and certainly if he hasn't any objection, I guess the rest of us haven't.

Mr. Clark: I am willing if the fees are of interest, he should know.

Mr. Rissman: The question is the materiality, not whether or not they are interesting.

1053 Trial Examiner Batten: Well, you went this morning into the question of arranging fees, and I have sufficient curiosity to want to know what the arrangement was.

Mr. Engelhard: I am not asking for the statement of a specific sum of money, understand; I am asking him as to what the agreement—as to what agreement was entered into between these nine or ten men and Mr. Burke at that time.

What was the question I asked?

(The question was read.)

Q. (By Mr. Engelhard) And to perfect the organization as to meetings, the first meeting and things of that sort.

Will you answer that question?

A. Will you read that question again.

(The question was re-read.)

A. I don't remember that, I don't know.

Q. (By Mr. Engelhard) Was there anything said by Mr. Burke as to the rendition of a bill for services?

A. I don't remember.

Q. There was a general discussion between Mr. Burke—

A. Yes, sir.

Q. Was Mr. Clark there at the time?

A. Yes.

Q. — and the men who were there?

A. Yes.

Q. Now, when the men left what was the understanding as between Mr. Burke and you men as to what Mr. Burke was to do?

1054 A. Mr. Burke was to get the by-laws in order for us.

Q. And articles of incorporation?

A. Yes, sir.

Q. Who was supposed to sign the articles of incorporation?

A. There was nothing said at that time as to the signing of papers.

Q. Nothing said at that time?

A. Not that day.

Q. Did you go back to Mr. Burke's office the next day?

A. I did.

Q. With whom?

A. With John Mitchka and Stanley Adamsky.

Q. Why did you three go back to Mr. Burke's office the following day?

A. I didn't know what was the purpose of going there until we were at his office. It was for the purpose of signing the incorporation papers.

Q. Well, you say you didn't know the purpose, were you asked to go there?

A. Yes, sir.

Q. Who asked you to go there?

A. Our chairman.

Q. That was who?

A. John Wolf.

1055 Q. John Wolf?

A. Yes, sir.

Q. And you went down there?

A. I did.

Q. To Mr. Burke's office?

A. I did.

Q. And what occurred when you got there?

A. When we got there he give us each a copy of the by-laws and we read it over carefully.

Q. When you speak of by-laws, you mean the articles of incorporation, or do you mean the by-laws that the corporation subsequently adopted after it was organized?

Now, let's get that straight in our minds.

Are you sufficiently familiar with how a corporation is organized, at first the articles of incorporation are signed by three persons in this state; then they are filed in the Secretary of State's office, then a certified copy is filed in the Register of Deeds' office, and then subsequently the people who organize the corporation meet and officers and directors are elected and by-laws usually adopted.

Now, to keep that straight in our minds, let's see what occurred—

Mr. Rissman: If the Examiner please, I suggest that the by-laws and articles of incorporation be exhibited to the witness so that he may identify what document he did

1056 receive.

Mr. Engelhard: Have you got them?

Mr. Rissman: They have been subpoenaed from the Independent Union.

Mr. Engelhard: Now—

Mr. Rissman: Now, he may arrive at that difference—I mean this witness evidently does not know the difference between those various documents and it is important to know whether on the second day after the first consultation the attorney had the by-laws prepared or whether the witness is talking about the articles of incorporation.

Mr. Engelhard: It is clear to anybody who has any sense he is talking about the articles of incorporation.

Trial Examiner Batten: I think by examination of it, Mr. Engelhard, if you will ask the witness what he signed and have the witness describe it, we can decide what it was.

Mr. Engelhard: Well, he didn't sign anything.

Trial Examiner Batten: Well, if he describes the instrument which Mr. Burke gave him that day I think we can determine what it is probably.

Mr. Rissman: - He has described it as the by-laws.

Mr. Engelhard: He has named it by-laws and described it as articles of incorporation.

Q. (By Mr. Engelhard) Now, after telling you how corporations are usually organized in this state, when you came down to Mr. Burke's office, the three of you, the three of you were asked to sign the articles of incorporation, isn't that correct?

A. Yes, sir.

Q. And not the by-laws?

Trial Examiner Batten: Now, what I am interested in is, what was this paper that Mr. Burke gave you to read? Will you describe that paper?

The Witness: That was the articles of incorporation, as I remember.

Q. (By Trial Examiner Batten) You are quite sure about it, now?

A. Yes, sir.

Q. (By Mr. Engelhard) Did that contain the name of the organization?

A. Yes, sir.

Q. And what was that name?

A. Independent Union of Falk Employees.

Q. Now, when was it decided the Independent Union name would be the Independent Union of Falk Employees?

A. That was decided on the first day, our first day with Mr. Burke.

Q. That was on the 13th—I mean, on the 14th?

A. Yes, sir.

Q. And that was decided among the nine men or ten men who were there?

A. Yes, sir.

Q. And Mr. Landrey and Mr. Kreger were there?

A. Yes, sir.

Q. Was there some discussion as to that among you men?

A. Yes, sir.

Q. So that when you walked out of the office on the 14th

Mr. Burke then knew that you wanted that organization called the Independent Union of Falk Employees?

A. Yes, sir.

Q. And that was agreeable to all nine men or ten men?

A. To all ten men, yes, sir.

Q. And it was indicated who—what kind of officers the union was supposed to have or this corporation was supposed to have?

A. Yes, sir.

Q. A president and vice president.

A. Yes, sir.

Q. And how many directors?

A. Yes, sir.

Q. And what the purpose of the organization would be?

A. Yes, sir.

Q. And what its powers were to be?

A. Yes, sir.

Q. Did you read the document?

1059 A. Yes, sir.

Q. Now, then, why didn't you sign it, the three of you, at that time?

Trial Examiner Batten: I don't think there is any evidence here they didn't.

Mr. Engelhard: He said they came down there that day and didn't sign the articles.

The Witness: I didn't sign because I thought it was the persons that had the responsibility; I did not know just what it really consisted of to sign incorporation papers.

Q. (By Mr. Engelhard) Did Mr. Adamsky and John Mitchka have the same reaction?

A. Well, they refused, I don't know just what they thought.

Q. Well, was that the last time that you attended any conference at Mr. Burke's office?

A. Yes, sir.

Q. Prior to the organization of the Independent Union?

A. Yes, sir.

Q. That was on the 15th then, is that correct, when you went down?

A. Yes, sir.

Q. The second time?

A. Yes, sir.

Q. Now, what arrangement did you make with Mr. Burke at that time as to who would sign the articles of incorporation, if you did make any arrangements?

1060

A. We left Mr. Burke that day with the impression that we were to run along as an association and later on incorporate.

Q. That is, did you tell him in effect that was what you thought it should be?

A. That was what we had decided to do when we left his office.

Q. Now then, did you have any application blanks printed for application for membership in the union?

A. Yes.

Q. Who paid for those?

A. Who paid for them?

Q. Yes.

A. I paid for the applications.

Q. Were those application blanks used partially for obtaining members?

A. Yes.

Q. In the union?

A. Yes.

Q. Now, between the 15th of April and the 18th the organization of the union had not been perfected?

A. It had not.

Q. You and some of the other men were active in trying to get the organization on its feet?

A. Yes, sir.

1061 Q. Now, then, a meeting was called of employees of the Falk Corporation for Sunday, April 18th?

A. Yes, sir.

Q. And who called that meeting?

A. I don't just recall who did that, call that meeting.

Q. Well, did you have anything to do in deciding on the meeting on the 18th at the North Avenue Auditorium?

A. I think that was done the day we refused to sign the incorporation papers.

Q. That is, you, Mr. Adamsky and Mr. Mitchka would have to decide as to whether or not a meeting was to be called?

A. We did.

Q. And you were appointed on the committee to get a lawyer?

A. Yes, sir.

Q. Then did you have other duties to perform besides getting a lawyer?

A. No.

Q. Why did you undertake to call or arrange for a meeting on the 18th?

A. Well, because we wanted to get the Independent Union started as soon as we could.

Q. How were the employees of the Falk Corporation notified that a meeting was to take place on the 18th?

A. They were notified by a printed statement.

Q. Who got out that printed statement?

1062 A. Mr. Burke, Mr. Adamsky, Mr. Mitchka and myself.

Q. That is, you had dictated it in Mr. Burke's office?

A. Yes, sir.

Q. Then did you have it printed?

A. Yes, sir.

Q. Who employed the printer?

A. A man working in the front office by the name of Brice.

Q. Who paid for the printing?

A. I did myself.

Q. Now then, on the 18th the men gathered at that North Avenue Auditorium at about what time?

A. I believe it was two o'clock.

Q. And there was a meeting held there?

A. Yes.

Q. And that meeting was addressed by Mr. Burke?

A. Mr. Burke did not open that meeting.

Q. I did not say he opened it; I said it was addressed by Mr. Burke.

A. Well, he was there, yes.

Q. Did anything come of that meeting? Was there anything decided at that meeting?

A. Not a thing.

Q. Was there any decision made at that meeting that the Independent Union was to be organized or not?

A. We did decide at that time to run along as an
1063 association and then later on incorporate.

Q. You mean at that meeting on the 18th?

A. Yes, sir.

Q. That was the decision?

A. Yes, sir.

Q. Now, do you know what happened on the morning of the 19th insofar as the articles of incorporation were concerned?

A. Yes, I do.

Q. What happened?

A. There were three men from the Falk plant that were to sign the incorporation papers.

Q. One was Mr. Wilson sitting here?

A. Yes, sir.

Q. And Mr. Trost?

A. Yes, sir.

Q. And Mr. Menz?

A. Yes, sir.

Q. You know that, of course, as a member of the association, that the articles of incorporation were filed at Madison on the 19th?

A. I knew it.

Q. And you knew that a certified copy was recorded in the Office of the Register of Deeds on the 20th?

A. I knew it.

Trial Examiner Batten: Mr. Engelhard, I was wondering if you will ask the witness why the three men who originally went up to Mr. Burke's office didn't sign and who decided the three men that did sign would sign instead.

Mr. Engelhard: I was just going to get into that.

Mr. Lamfrom: We have a little document here which Mr. Rissman kindly handed me, which shows the notice that was sent out, which will give the Examiner an opinion of what the various events were, and will show what the notice was.

Is there any objection to that?

Mr. Engelhard: Will you mark that Respondent's Exhibit 5?

(Whereupon, the document above referred to was marked Respondent's Exhibit No. 5 for identification.)

Trial Examiner Batten: As a matter of fact, if Mr. Clark has the charter here and by-laws it would be a good place to introduce them.

1065 Mr. Engelhard: I think I will do that.

Trial Examiner Batten: The witness just testified they were filed.

Mr. Engelhard: Not the by-laws.

Trial Examiner Batten: I mean the charter, this would be a good place to put it in.

Mr. Lamfrom: Let it appear that Mr. Rissman just handed me the notice which is marked Respondent's Exhibit—what?

Mr. Engelhard: 5.

Mr. Rissman: Pardon me, the charter and by-laws and other documents of the Independent Union have been subpoenaed by the Board but not yet produced.

Mr. Lamfrom: Let it appear that you did not subpoena the respondent to produce them.

Mr. Rissman: No.

Mr. Lamfrom: The respondent can't produce them, as I told you before.

Trial Examiner Batten: Are you sure about that?

Mr. Lamfrom: I am positive of it. This is the first time I have ever seen this notice.

Q. (By Mr. Engelhard.) Now, Mr. Greget, I will show you Respondent's Exhibit No. 5, and ask you whether or not this is the notice that was sent out among the employees of the plant for the meeting of April 18, 1937?

A. Yes, sir.

1066 Q. And that states the meeting was to take place at one thirty, at 3116 West North Avenue?

A. Yes, sir.

Q. And it says:

"A meeting of the employees, not including superintendents, assistant superintendents, foremen or assistant foremen, of The Falk Corporation will be held on Sunday afternoon, April 18th, 1937, at 1:30 o'clock at 3116 West North Avenue, Milwaukee, Wisconsin, to consider the question of organizing for the purpose of collective bargaining.

"Bring employee's pass.

"All employees are invited to attend.

"At the request of the Committee."

Trial Examiner Batten: May I see it?

Mr. Engelhard: Yes.

Trial Examiner Batten: You don't need to put this in the record.

(Discussion outside the record.)

Q. (By Mr. Engelhard.) Now, Mr. Greget, do you know how it happened that between the time of that meeting of the 18th and the filing of these articles of incorporation at Madison on the 19th, Messrs. Wilson, Menz and Schultz went to Mr. Burke's office and signed up those articles of incorporation?

A. I do.

1067 Q. Will you tell us what you know about that?

Mr. Rissman: And how he knows.

Q. (By Mr. Engelhard.) Yes, and how you know it?

A. It was after the meeting at the North Avenue Auditorium that Sunday—I forget the date—that I was talking to Mr. Burke and to Mr. Trost and we were discussing about

who was to sign these incorporation papers as we went along, and just then Mr. Wilson came along and he said—he listened for a moment—he said “Why, if you are looking for someone to sign the papers” he says, “I will sign if I can get some one to sign with me,” and Joe Trost and I both volunteered we would sign those papers with him.

Then Joe Trost or the attorney mentioned probably we had better get someone from a different department, it would probably look a little better, because Joe Trost and I worked in the same department.

I said “If it is O. K. with you, it is all right with me.” And how Mr. Menz got into the picture, I don’t know.

Q. Now, you said that you had—

Trial Examiner Batten: Mr. Engelhard, may I interrupt there?

Mr. Engelhard: Yes, sir.

Trial Examiner Batten: Mr. Clark, have you the charter?

Mr. Clark: Yes.

Trial Examiner Batten: May we have it introduced 1068 at this time please? I think this has been under discussion, and I think this would be a good place.

Mr. Lamfrom: To whom is the subpoena directed to produce the charter?

Mr. Rissman: To the Independent Union, to the attention of the president, Mr. Wilson.

Trial Examiner Batten: Well, of course I want it to appear clearly that the respondent is not introducing the charter; I mean it is at the request of the Examiner, Mr. Lamfrom.

Mr. Lamfrom: Yes, surely, I want to have it appear clearly that we were not subpoenaed to produce the charter over which we had no control, custody or possession, influence and a lot of other things.

Mr. Rissman: I never saw it.

Trial Examiner Batten: I think it so shows.

Mr. Lamfrom: It should by this time.

Mr. Rissman: Now, with reference—

Trial Examiner Batten: Now, are you going to introduce it?

Mr. Rissman: If you feel it is advisable to have it introduced at this time, it is all right.

Trial Examiner Batten: I think this would be a good time to have it introduced, irrespective of who is introducing it, because it has been under discussion.

1069 Mr. Rissman: If everybody disclaims it, I will introduce it as my exhibit.

Mr. Lamfrom: Nobody that I know is disclaiming anything.

Mr. Clark: Mr. Rissman made the statement that it has not been produced. No one asked for it. I have been here since the beginning of the week and we have the original articles and we have a copy.

I take it, if you want the original marked, then leave a copy—

Mr. Rissman: You probably want the original.

Mr. Clark: Yes.

Trial Examiner Batten: I would say you introduce the original with the privilege of substituting a copy therefor.

Mr. Engelhard: You mean introduce the original charter and substitute a copy.

Trial Examiner Batten: Yes.

Mr. Clark: You had better mark it.

(Thereupon the document above referred to was marked Board's Exhibit No. 26 for identification.)

Trial Examiner Batten: Well, I requested that it be introduced at this time. I think possibly it would be advisable that it be made Board's Exhibit 26.

Mr. Clark: Pursuant to the subpoena directed to Mr. Wilson, president of the Independent Union, to furnish 1070 the articles of incorporation, we are now producing them at the request of the Examiner, they have been marked Board's Exhibit No. 26 and I should like to ask leave at this time to withdraw the original and substitute a copy in its stead.

Trial Examiner Batten: If there is no objection, the copy will be received.

Mr. Rissman: As long as the copy is a true copy of the original I have no objection.

Mr. Clark: Mr. Examiner—

Trial Examiner Batten: Mr. Clark, you made the copy, I mean it was made under your supervision?

Mr. Clark: Yes, I know it is a copy of the original.

Trial Examiner Batten: You know it is a correct copy?

Mr. Clark: Yes.

Trial Examiner Batten: You may withdraw the original and substitute the copy.

(Thereupon the document above referred to, heretofore marked for identification as BOARD'S EXHIBIT NO. 26, was received in evidence.)

Mr. Clark: I would like to make this statement: On the

back of the original there is stamped "Registrar's Office, Milwaukee County, Wisconsin. Received for record April 20th, 1937, at 12:25 P. M., recorded in Volume 89 of Corporations, page 250.

"Stanley Schultz, Registrar of Deeds, by John Zimmerman, Deputy."

Trial Examiner Batten: That does not appear on the copy?

Mr. Clark: That does not appear on the copy.

Trial Examiner Batten: You may withdraw the original.

Mr. Engelhard: Let's understand, Mr. Clark, that attached to the original is the certificate of the Secretary of State, Theodore Dammann, to the effect that the Secretary of State certifies that the original articles of incorporation of the organization of Independent Union of Falk Employees, of which articles attached is a certified copy, was on the 19th day of April, A. D. 1937 accepted and filed in the Department of State, and that certificate is dated the 19th day of April, 1937.

Trial Examiner Batten: That does not appear on the copy?

Mr. Engelhard: No, that is the certificate which the Secretary of State attaches to the original.

Trial Examiner Batten: My understanding was when I permitted the copy to be substituted, that it was a complete copy of the entire Exhibit 26. So it is now understood that it is a copy of the articles—

Mr. Engelhard: Merely of the articles.

Trial Examiner Batten: —and the certificate of the proper state official and stamp of filing by the local officer is not a part of the copy which has been substituted.

1072 Mr. Engelhard: That is correct. I will ask the reporter to indicate on the original the exhibit number, so that the exhibit itself includes a number.

Mr. Clark: You read into the record the information on the certificate and the information contained on the back.

Mr. Engelhard: That was the purpose in reading it.

Trial Examiner Batten: There being no objection it will be received.

Mr. Engelhard: Now will the reporter read the last question and answer?

(The record was read as follows:

"Q. Now, Mr. Greget, do you know how it happened that between the time of that meeting of the 18th and the filing of these articles of incorporation at Madison on the 19th, Messrs.

Wilson, Menz and Schultz went to Mr. Burke's office and signed up those articles of incorporation?

"A. I do.

"Q. Will you tell us what you know about that?

"Mr. Rissman: And how he knows.

"Q. (By Mr. Engelhard.) Yes, and how you know it?

"A. It was after the meeting at the North Avenue Auditorium that Sunday—I forget the date—that I was talking to Mr. Burke and to Mr. Trost and we were discussing about who was to sign these incorporation papers as we were

1073 along, and just then Mr. Wilson came along and he said

—he listened for a moment—and he said "Why, if you are looking for someone to sign the papers", he says, "I will sign if I can get someone to sign with me", and Joe Trost and I both volunteered we would sign those papers with him.

"Then Joe Trost or the attorney mentioned probably we had better get someone from a different department, it would probably look a little better, because Joe Trost and I worked in the same department.

"I said 'If it is O. K. with you, it is all right with me.' And how Mr. Menz got into the picture I don't know.")

Q. (By Mr. Engelhard.) Now, did you have any meeting—strike that.

Did you know that an organization meeting took place on the 26th day—that is wrong—on the 24th day of April, on Saturday?

A. Yes.

Q. Were you present at that meeting?

A. Yes.

Q. That was a meeting at which the stockholders or members, this being a non-profit organization, elected a board of directors?

A. Yes.

1074 Q. And it was the meeting at which the officers were—no, pardon me.

Then subsequently, if you know this, the board of directors met and elected officers, is that correct?

A. Yes.

Q. Now,—

Trial Examiner Batten: Mr. Engelhard, I wonder if you will ask him who are the stockholders in this corporation.

Mr. Lamfrom: They are not stockholders, they are members.

Trial Examiner Batten: I mean who are the members, he

referred to this meeting, who was there, who do you mean by "members"?

The Witness: The members that had signed—any employees who had signed applications to become members of the Independent Union.

Q. (By Mr. Engelhard.) Do you know how many employees had signed applications up to that time?

A. No, not up to that Sunday.

Q. I am not speaking of Sunday, I am speaking of Saturday.

A. Oh, Saturday, that was the second meeting.

Q. Just about the first and second meetings. I am speaking of the meeting on Saturday, the 24th.

A. That was the day after the board of directors were set up.

Q. You were at that meeting?

1075 A. I was there. I don't remember the exact amount of applications.

Q. Thirteen directors were elected at that meeting?

A. Well,—

Mr. Rissman: I object to the question. Mr. Engelhard is again testifying rather than asking the witness a question.

Mr. Engelhard: Well, I think that is a matter about which we can have any dispute, Mr. Rissman.

Mr. Rissman: But we may have some dispute as to whether or not the witness remembers this thing. In my examination he remembered very few things, and in your testimony, you are testifying for him, and he has no difficulty at all.

I suggest therefore, that he be asked questions rather than statements.

Trial Examiner Batten: I do think, Mr. Engelhard, if you were to ask him how many directors were elected, it would be better form than to say 13 were elected, because as I recall, this witness did have some difficulty in remembering very much on his direct examination; so I think probably if you would permit him to indicate what he can, and then if you— if there is something further you may refresh his memory by a more direct question.

Mr. Engelhard: These questions, Mr. Examiner, are briefly a chronological development of what occurred and
1076 naturally this man will remember more when taking them over chronologically than when skipping around without giving any definite basis.

Trial Examiner Batten: I don't think you may skip around,

you may continue your chronological questions but ask questions which will permit the witness to answer whether he recalls how many directors were elected, or whether he recalls what was done.)

Q. (By Mr. Engelhard.) Well, Mr. Greget, how many directors were elected at that meeting?

A. I don't know.

Q. Then you don't know how many directors the corporation has, I mean the Independent Union.

A. I couldn't say exactly.

Q. The by-laws were adopted at that meeting?

A. Yes, sir.

Q. Now, about how many people attended that meeting, if you know?

A. Well,—

Q. (Continuing.) At which the directors were elected.

A. I have no count of that meeting at all.

Q. Well, were there five people there, or were there five hundred there?

A. Oh, I would say there were several hundred.

Q. (By Mr. Rissman.) Does that mean two hundred 1077 or three hundred?

A. I would say from two to three hundred people.

Q. (By Mr. Engelhard.) Now, after the meeting of the 26th—I mean of the 24th of April, at which the corporation was organized, the corporate organization was perfected, had there been any other meetings of members of the Independent Union?

A. Yes, there has been a meeting once a month ever since.

Q. Do you know what the by-laws call for as to meetings by members of the corporation?

A. I do not, there is only one copy of the by-laws.

Q. What is that?

A. There is only one copy of the by-laws.

Q. Then you are not familiar with the by-laws.

A. No.

Q. But you have a meeting once a month.

A. The union meets once a month, yes.

Q. Yes.

Trial Examiner Batten: Mr. Engelhard, have you any objection if they have those by-laws introduced at this time?

Mr. Engelhard: I personally haven't any.

Mr. Rissman: Those are also subject to subpoena; I have no objection.

Trial Examiner Batten: I wonder if you will produce the by-laws at this time. As long as you are carrying this witness along on the chronological order of this, I think 1078 this would be a good place to put them in.

Mr. Engelhard: I have no objection to having the by-laws.

Mr. Lamfrom: Who has them?

Mr. Rissman: Mr. Clark has them.

Mr. Lamfrom: All right.

Trial Examiner Batten: That will be Board's Exhibit No. 27?

Mr. Rissman: 27, yes.

Trial Examiner Batten: Do you have a copy of those, Mr. Clark?

Mr. Clark: I have, but I would prefer to have another copy made to substitute in place of this yellow copy.

Mr. Rissman: Perhaps we had better wait until Mr. Clark can bring in another copy.

Trial Examiner Batten: Well, you introduce them now and then I will permit you to take this copy and make another copy, so that we have them in at this point.

I am thinking of any person in the future who has to go through the transcript, if these things are in at this point.

That will be Board's Exhibit No. 27,—consisting of how many pages, Mr. Clark?

Mr. Clark: Five.

Trial Examiner Batten: Five pages?

1079 Mr. Clark: Yes, sir, we ask to withdraw it and substitute a copy.

Trial Examiner Batten: Yes, you may withdraw it. I suppose you will have that copy for us tomorrow morning, Mr. Clark?

Mr. Clark: Yes.

(Thereupon the document above referred to, was marked BOARD'S EXHIBIT NO. 27, and received in evidence.)

Trial Examiner Batten: You may proceed, Mr. Engelhard.

Q. (By Mr. Engelhard.) Mr. Greget, in any of the activities that you engaged in personally with respect to the organization of the Independent Union, had you in any manner been requested by any of the company officials to do or not to do any particular thing?

A. No, sir.

Q. Outside of the conversation you had with Mr. Falk at

the time—that was on the 13th of April in his office about the attorney—did you at any other time in connection with your activities in organizing the Independent Union, talk to any other officer or any other supervisory person regarding the organization of the Independent Union?

A. No.

Mr. Rissman: That date was April 12th.

Mr. Engelhard: What is that?

1080 Mr. Rissman: April 12th.

Mr. Engelhard: He said he saw Mr. Falk on the 13th, that was his testimony.

Mr. Rissman: On direct examination he said the 12th.

Mr. Engelhard: No, that was Mr. Adamski, this morning, who said the 12th. Men disagree as to dates.

Trial Examiner Batten: Well, I don't think it is material.

Mr. Engelhard: No, it is not material.

Mr. Rissman: It is just another discrepancy.

Q. (By Mr. Engelhard.) During the time that you were organizing the Independent Union with your fellow employees, did you receive any information from any of the co-organizers with you, that any officer of the company or any supervisory employee of the company was seeking to influence the court that you and the rest of the organization—the rest of the organizing employees should take?

A. No.

Q. You would say then that this union was organized by you employees because you wanted it?

A. Yes.

Mr. Engelhard: That is all.

Redirect Examination.

Mr. Rissman: Do you have any questions, Mr. Clark?

Mr. Clark: No.

1081 Q. (By Mr. Rissman.) Mr. Greget, do you recall whether or not you had any meeting with Mr. Dick Falk, Richard Falk, with reference to the company union or unions in general?

Mr. Engelhard: Now just a moment.

Q. (By Mr. Rissman.) (Continuing.) I mean the Independent Union or unions in general.

A. You are not referring to any meetings below the hospital?

Q. Any meeting around that time below the hospital, or in Mr. Richard Falk's office.

A. Well, Mr. Richard Falk was called in to one of the meetings that we had below the hospital.

Q. That was on a different day from the meeting at which Mr. Harold Falk was called.

A. Yes.

Q. For what purpose was Mr. Richard Falk called in?

A. I believe it was for the purpose of explaining to us the Severson Act.

Q. What is Mr. Richard Falk's position in the company, do you know?

A. I couldn't say.

Q. You have testified that Mr. Landrey was one of the men who was originally interested with you and others in creating an independent union, is that true?

A. Yes.

Q. When did Mr. Landrey leave the group that was 1082 creating this union and cease being active for the Independent Union?

A. The last time that he met with us was at the attorney's office.

Q. At Mr. Burke's office?

A. Yes, sir.

Q. Now, you are referring now to the very first meeting you had with Mr. Burke.

A. Yes, sir.

Q. And that was the last time Mr. Landrey participated in any activities on behalf of the Independent Union or its creation?

A. That I remember, yes.

Mr. Lamfrom: What was the date?

Mr. Rissman: The first meeting with M. Burke.

Mr. Lamfrom: April 13th.

Trial Examiner Batten: I believe that was the 14th, wasn't it?

Mr. Engelhad: The 14th.

Q. (By M. Rissman.) Do you know, and can you tell us why M. Landrey left the activities of the Independent Union?

A. I could not.

Q. Did he ever tell you why he left?

A. No, sir.

Q. Did you ever discuss with any of the other employees who were active on the Independent Union the reason 1083 why Mr. Landrey left?

A. I did not.

Q. Did you ever hear why he left?

A. No.

Q. Do you know now why he left?

A. No, sir.

Q. Have you heard up until now why he left?

A. No, sir.

Q. Did you ever inquire?

A. No, sir.

Q. Have you any idea as to why he left?

A. No, sir.

Q. When you were at Mr. Burke's office on that first meeting, who suggested the name for the Independent Union? You men, Mr. Burke or Mr. Clark?

A. It was I that suggested that name, and after some discussion they agreed upon that name.

Q. Did Mr. Burke or Mr. Clark make any suggestions as to what the name of the organization—what name the organization should adopt?

A. Not that I remember.

Q. Can you tell us why you chose the name you did choose?

A. Well, because I thought it was the most fitting.

Q. Did you have in mind at that time that Mr. Burke and Mr. Clark also represented the Independent Union of 1084 Harnischfeger Employees?

Mr. Engelhard: Now just a moment, there is no proof here that they at that time represented that organization.

Mr. Lamfrom: If he knows what it is, what is the relevancy?

Mr. Clark: Furthermore, it is not so.

Mr. Lamfrom: Don't go out of your way.

Mr. Rissman: I don't have to go out of my way.

Trial Examiner Batten: I don't think that question is particularly material. If the witness happens to know the answer, I see no objection to him answering it.

Q. (By Trial Examiner Batten.) As far as you know, Mr. Burke and Mr. Clark had represented other unions?

A. Yes.

Q. When did you know that for the first time?

A. Oh, that was, I would say, a year and a half or two years.

Q. At the time you said at Mr. Falk's office that Mr. Burke was O.K., you knew that Mr. Burke and Mr. Clark had in the past represented independent unions, is that it?

A. Well, they were engaged in some union activities.

Q. (By Mr. Engelhard.) I understand you testified on direct examination—

Mr. Rissman: I am not finished, Mr. Engelhard.

Mr. Engelhard: Let me put this so as to connect with the Examiner's question.

1085 Mr. Rissman: All right.

Q. (By Mr. Engelhard.) You had known that Mr. Burke represented some side of the Ward-Allen labor controversy?

Mr. Rissman: He didn't say "labor controversy."

Trial Examiner Batten: He didn't say "labor controversy." He made no reference to labor controversy when he gave that.

Mr. Engelhard: I understood that.

Trial Examiner Batten: No.

Q. (By Mr. Engelhard.) Well, did you know at the time when Mr. Burke represented somebody in the Ward-Allen matter that you referred to, that was a labor matter?

A. He was engaged in some union activities there, yes.

Q. (By Mr. Rissman.) Why didn't you testify on direct examination when I asked you if you knew what activity it was in the Ward-Allen matter?

Mr. Engelhard: It seems to me you asked him whom he represented.

Mr. Rissman: The record will speak for what I asked.

Trial Examiner Batten: I presume I will have to instruct the reporter to read the question to the witness.

Now, there is no doubt in my mind but what counsel tried to secure from this witness information, and as I recall it, he had a very poor recollection.

Mr. Rissman: The witness had a very poor recollection.

1086 Trial Examiner Batten: Yes, not counsel.

And on this particular matter my recollection is that he was very indefinite about it and his recollection was very poor.

I will ask the reporter to look it up tonight. Don't put this in the record.

(Discussion outside the record.)

Trial Examiner Batten: If you will, be here tomorrow at 9:30.

Mr. Rissman: I would prefer to discontinue my examination of this witness until we have that information.

Trial Examiner Batten: Mr. Clark, are there any questions?

Mr. Clark: No, except I would like to straighten out this Ward-Allen business.

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Trial Examiner Batten: Yes, we will be able to do that tomorrow morning.

Mr. Lamfrom: I could tell you all about that.

Trial Examiner Batten: I think we will adjourn until tomorrow morning, gentlemen.

(Whereupon, at 5 o'clock P. M. August 18th, 1937, the hearing was adjourned to 9:30 o'clock A. M. August 19th, 1937.)

1087 BEFORE THE NATIONAL LABOR RELATIONS BOARD.

• • (Caption—XIIC57 and XIIR85) • •

Room 409, Milwaukee County Court House,
Milwaukee, Wisconsin,
Thursday, August 19, 1937.

The above-entitled matter came on for hearing, pursuant to adjournment, at 9:30 o'clock a. m.

Before:

James C. Batten, Trial Examiner.

Appearances:

Robert S. Rissman, and
S. G. Lippman, Attorneys on behalf of the National
Labor Relations Board.

A. G. Goldberg, 511 Warner Building, Milwaukee,
Wisconsin, appearing for International Union of
Operating Engineers, Local 311, (arrived after
hearing convened).

1091 Giles F. Clark, of Alexander, Burke & Clark, 110 East
Wisconsin, Milwaukee, Wisconsin, appearing for
Independent Union of Falk Employees.

Lamfrom, Tighe, Engelhard & Peck, by Leon B. Lam-
from, and A. J. Engelhard, appearing for The Falk
Corporation.

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Proceedings.

Trial Examiner Batten: Mr. Goldberg, I notice, is not here, but, in accordance with his agreement with the Trial Examiner, we will proceed.

Mr. Greget, I believe you were on the stand.

LESLIE GREGET, a witness called by and on behalf of the National Labor Relations Board, having been previously duly sworn, was examined and testified further as follows:

Redirect Examination (Continued).

Trial Examiner Batten: Yesterday, at the close of the hearing, we requested the reporter to go back in his record and secure certain questions and answers in the record pertaining to this witness, and he has furnished me with the following transcript from his record.

You were asked the question by Mr. Rissman:

"Q. (By Mr. Rissman.) Did you know Mr. Burke?

"A. No, sir.

"Q. You had never heard of him before?

"A. No, sir.

"Q. You had just heard his name, or heard something about his reputation?

"A. I heard something about his reputation; I also read about Mr. Burke in the paper.

1093 "Q. What did you read about him in the paper?

"A. Well, different cases that he had sometime back.

"Q. Do you recall any particular cases, the type of cases?

"A. It seems to me that he represented Ward-Allen cases at the time.

"Q. Represented who, do you know?

"A. I couldn't say.

"Q. Did he represent a labor organization?

"A. I couldn't say.

"Q. Or, did he represent the company?

"A. I just remember reading his name.

"Q. Do you recall his name in connection with any other type of cases?

"A. I don't recall right now, but I read of it several times."

Then the question which was continued until this morning was:

"Q. Why didn't you testify on direct examination when I asked you if you knew what activity it was in the Ward-Allen matter?"

That is the question that is unanswered.

Mr. Lamfrom: The apparent inconsistency of the question now ask with the testimony of the witness must be evident.

He did not testify that he knew what Mr. Burke's 1094 connection was in the Ward-Allen case. There is an inconsistency here.

Trial Examiner Batten: That is the thing that started the discussion, was that Mr. Engelhard asked him a question concerning the Ward-Allen Company, and the labor controversy they were in.

Mr. Engelhard: No, I asked him whether he knew whether there was a labor controversy.

Mr. Lamfrom: What I want to bring out, Mr. Trial Examiner, is this: That there appeared to be an effort here to show that this witness was inconsistent in his testimony, which was picked out by one of the newspapers this morning, and it is an injustice, as the record stands here, as I see it, to this witness.

Trial Examiner Batten: What is the injustice?

Mr. Lamfrom: The injustice is that the witness is apparently made the subject of an inference here, that he has testified inconsistently, and tied himself up, which is not the fact; that that inference carries with it what I indicate is shown by the fact that one of the morning papers commented upon that situation as the witness' having been tied up, or something to that effect.

Trial Examiner Batten: Let's let the witness straighten it out.

Mr. Lamfrom: That's all right, but I mean, the fact 1095 that an inference is cast here is an injustice to the witness.

Mr. Engelhard: I happened to inject into the record, your Honor, a question as follows:

"I understand you to testify on direct examination that you did not know Mr. Burke represented some side in the Ward-Allen labor controversy."

Trial Examiner Batten: Now, Mr. Engelhard, you, of course, knew that his answers did not imply anything concerning a labor controversy.

Mr. Engelhard: Then it is my fault, not his, because I happened to use the expression "labor controversy". Mr. Rissman said, "I remember he didn't say 'labor controversy'. He said 'case'." Then I said, "Did you know Mr. Burke represented somebody in the Ward-Allen matter?"

Trial Examiner Batten: The only point at issue here was, to settle the matter, that you misquoted the testimony of the witness.

Mr. Engelhard: That is my fault, and not his.

Trial Examiner Batten: You may answer that question.

Mr. Engelhard: May I ask the question be repeated to him?

Q. (By Trial Examiner Batten.) The question as it stands is, "Why didn't you testify on direct examination when I asked you if you knew what activity it was in 1096 the Ward-Allen matter?"

A. What was the question before that?

Q. The question in issue is the question which Mr. Engelhard asked you. Lou testified that you knew that there was a labor matter involved in the Ward-Allen matter, on cross-examination; and, on direct examination, you stated that you did not know that.

Now, the question is, why did you give that testimony on direct, and the other testimony on cross-examination?

A. It seems to me like I misunderstood Attorney Engelhard's statement at that time, or his question.

Mr. Engelhard: The record shows what happened, if I can read it.

Trial Examiner Batten: Yes.

Mr. Engelhard: "Mr. Engelhard;"

Mr. Rissman: May this go into the record?

Mr. Engelhard: This is off.

Trial Examiner Batten: It is, of course, understood that this is not the official transcript you are reading from.

Mr. Engelhard: Certainly. This is what it purports to be.

Trial Examiner Batten: It does not need to be in the record, as far as the official transcript is concerned, if you want to advise the witness as to what preceded. Off the 1097 record.

(Off the record.)

Trial Examiner Batten: Now, that is the thing that you may explain, on direct examination where you stated you were not familiar with what the controversy was about.

The Witness: A. I probably didn't mean to say "union activities." I probably meant to say some labor trouble. I just stated it wrong, that's all.

Q. (By Mr. Rissman.) Why didn't you say "labor trouble" when I asked you the question on the direct examination?

Mr. Engelhard: Just a minute.

The Witness: A. Because you probably put the questions to me in a different way.

Mr. Engelhard: He has answered, but I wanted to put an objection that he was never asked that question.

Mr. Rissman: He certainly was. The record is full of it. This witness does not remember one question from another.

Mr. Engelhard: When you slam your papers that way, we can't hear. I would like to refer, Mr. Trial Examiner, to what you read.

Trial Examiner Batten: The question asked by Mr. Rissman was "Did he represent a labor organization?" Answer: "I couldn't say."

Mr. Engelhard: He doesn't say now.

1098 Trial Examiner Batten: Just a minute, until I get this thing straightened out, or try to, at least.

What was the answer to the last question, Mr. Reporter?
(Record read by the reporter.)

Trial Examiner Batten: I think the record is sufficiently clear, we will just dispose of it that way. You may proceed, Mr. Rissman.

Q. (By Mr. Rissman.) Now, Mr. Greget, at the time of your first meeting at Mr. Burke's office, was there any discussion as to whether or not this new organization was going to be incorporated, or just an association?

A. Yes, we had a discussion on that.

Q. And what was decided as to what form of organization it would be?

A. I don't think it was decided on that day. We could either go along as an association, as we were instructed by Mr. Burke, or incorporate any time from there on.

Q. Was it at that meeting that Mr. Burke said you could run along as an association until you later decided what to do?

A. Yes.

Q. When were you at Mr. Burke's office with two other men, when you were asked to sign the articles of incorporation?

A. That was a day or two later than the day we were there the first time.

1099 Q. That is the occasion when the three of you did not sign?

A. Yes.

Q. And you stated on cross-examination, in response to

questions by Mr. Engelhard, that you did not want to sign because you did not know the responsibility of signing incorporation papers?

A. Yes, sir.

Q. At the meeting of April 18th, at the North Avenue Auditorium, you say it was decided that the organization would not be incorporated, is that your testimony?

A. At the time, yes, at that meeting.

Q. But, on the following day, April 19th, as the record indicates, the documents, articles of incorporation, were signed, and on the same day filed with the Secretary of State at Madison, Wisconsin?

A. As much as I know, yes.

Q. Now, between the meeting of April 18th and the signing of the documents on April 19th, what occurred to change the purpose or the nature of the form of organization?

A. Is that the time between the first meeting and the time that the papers were signed?

Q. That's right.

A. What happened in between there?

Q. That's right.

1100 A. I believe I stated that yesterday, that we were talking outside of the hall, Mr. Trost, Mr. Burke, and myself, about having the union incorporated.

Q. Although you had just come out of a meeting where it was decided not to be incorporated?

Mr. Clark: I object to that, as not stating the facts as brought out. As I understand, nothing was done at that meeting.

Q. (By Trial Examiner Batten.) Didn't you say that at the meeting it was decided that you would run along as an association for the present?

A. I said it yesterday.

Q. You said it again this morning.

A. To go along as an association.

Trial Examiner Batten: Yes. I think the question is proper. Apparently that is what they were going to do.

Q. (By Trial Examiner Batten.) The question is, what happened between the close of the meeting and the next day when the articles of incorporation were signed? Did the board of directors take any action changing that? Who decided that?

A. I beg your pardon. We had no board of directors at that time.

Q. Then, who did decide that you were going to incorporate, instead of remain an association?

1101 A. That was done during this little intimate talk that we had between the three of us. Just then Mr. Wilson came along.

Q. Tell us who it was who said, "I think we had better incorporate," if anyone did say that.

A. We were talking about having the union incorporated, and then I forget the remarks, Mr. Wilson came along, he heard what we were talking about, and he immediately said, "I will sign those papers if I can get someone to sign with me."

Q. (By Mr. Rissman.) So that the reason today the Independent Union of Falk Employees is an independent corporation is because of a little intimate talk between the union and three employees?

Mr. Engelhard: Between who?

Mr. Rissman: Between the attorney and three employees.

Mr. Clark: You didn't say what you meant.

Mr. Rissman: Will you read the question, and substitute "attorney" for "union"?

(Question read as follows:)

"Q. (By Mr. Rissman.) So that the reason today the Independent Union of Falk Employees is an independent corporation is because of a little intimate talk between the attorney and three employees?"

The Witness: A.. I would think so.

1102 Q. (By Mr. Rissman.) You say you paid for the application blanks?

A. I did.

Q. How much did you pay for them?

A. Well, there was the application blanks, and the notices of the first meeting.

Q. How much was the printing bill for those items?

A. I believe it was eight dollars and some cents.

Q. Were you reimbursed for that?

A. What?

Q. Did you ever get your money back?

A. Yes, sir.

Q. From whom?

A. From the Independent Union.

Q. When?

A. After we were organized.

Q. Did they pay you by check or cash?

A. If I am not mistaken, it was by check.

Q. At the time you had these application cards and notices of the meeting of April 18th printed, you knew, did you not, that they were to be used for the purpose of creating a union?

A. I did.

Q. Those items as printed do not have on them the union printing label, have they?

1103 A. No, sir.

Q. Do you know that they were printed by a union printer?

Mr. Engelhard: I move those questions and answers, those that have been answered, be stricken.

Trial Examiner Batten: They may be stricken.

Mr. Engelhard: That is entirely immaterial. What kind of an idea have you got now?

Q. (By Mr. Rissman.) Mr. Falk didn't tell you or anybody else not to indicate that he recommended or suggested the names of attorneys, did he?

A. Will you read that question?

(Question read by the reporter.)

The Witness: A. No, sir.

Q. (By Mr. Rissman.) But you say he did hesitate before mentioning any names, and he did state "I don't think there is anything wrong with it," and then suggested the names?

A. Yes, sir.

Q. And the thought to conceal the fact that Mr. Falk did mention those names was your own?

Mr. Lamfrom: Just a minute, please. I think the evidence speaks for itself on that, and there is no necessity for counsel doing it.

Trial Examiner Batten: May I ask you, Mr. Rissman, are you going to go over the entire testimony of this man again this morning?

1104 Mr. Rissman: No, sir.

Trial Examiner Batten: I think all those matters were very fully covered yesterday. I think our time is too valuable to carry this witness through that whole story again.

Mr. Rissman: I didn't intend to, Mr. Examiner.

Mr. Lamfrom: I move the question be stricken, because it carries with it something that is a matter for the Trial

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Examiner to determine, not for the questioner, by the word that he used "conceal".

Trial Examiner Batten: As I understand it, you made a formal objection to the question?

Mr. Lamfrom: That I did.

Trial Examiner Batten: The objection will be sustained.

Mr. Rissman: That's all.

Mr. Lamfrom: That's all.

Mr. Clark?

Mr. Clark: Nothing.

Trial Examiner Batten: Mr. Goldberg?

Mr. Goldberg: No questions.

Trial Examiner Batten: You have none, Mr. Clark?

Mr. Clark: No.

Trial Examiner Batten: That's all.

(Witness excused.)

Mr. Rissman: Mr. Hedberg.

1105 HENNING E. HEDBERG, a witness called for and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Rissman.) What is your name?

A. Henning E. Hedberg.

Q. Are you employed by The Falk Corporation?

A. Yes, sir.

Q. (By Trial Examiner Batten.) You will have to talk a little louder, Mr. Hedberg, so the lawyers can hear you.

A. Yes, sir.

Q. (By Mr. Rissman.) How long have you been employed there?

A. About four years.

Q. What is your present title?

A. Welding foreman.

Q. How long have you been welding foreman?

A. Since about the first of May.

Q. 1937?

A. Yes, sir.

Q. How many men work under you, Mr. Hedberg?

A. Twenty-one.

Q. Have you ever engaged in any discussion with em-

employees regarding your opinions on labor organizations in the plant?

1106 A. I have had conversation, yes, sir.

Q. And you have expressed your opinions to them?

A. Well, I don't know as I have expressed my opinion so much.

Q. Have you ever expressed any preference of one type of labor organization over another type?

A. I don't believe so.

Q. Did you tell any of the employees that you thought the Independent Union was a better organization than the C. I. O.?

A. No, sir.

Q. Do you recall a conversation you had with Mr. Grant Neal, where you stated that "The C. I. O. will do you no good. The company is going to fight it."?

A. I don't remember ever having a conversation with Mr. Neal.

Q. Of any kind?

A. Well, I have had conversation with him, but not on labor.

Q. Did you ever ask Mr. Neal when he was going to join the Independent Union?

A. No, sir.

Q. Did you ever ask anybody that?

A. Not that I know of.

Q. Do you know how many men in your department 1107 are members of the C. I. O.?

A. I wouldn't know how many there are, no.

Q. Do you know any who are?

A. Yes.

Q. How do you know?

A. Well, they carry a button.

Q. Aside from the buttons, do you know?

A. I only have one man that I know, and he told me.

Q. Are there any employees in your department who were members of the C. I. O., who, after conversation with you, indicated that they would no longer be members?

A. No, sir.

Q. That never occurred?

A. No, sir.

Mr. Rissman: That's all.

Mr. Engelhard: No cross-examination.

Trial Examiner Batten: Mr. Goldberg?

Mr. Goldberg: No.

Trial Examiner Batten: Mr. Clark?

Mr. Clark: None.

Examination by the Chair.

Q. (By Trial Examiner Batten.) Will you tell us what statement you did make? You said you had some conversations. Now, what did you say in those conversations?

A. I don't mean that I had any conversation outside 1108 of the regular routine, going around talking to a man as I go around.

Q. You mean, you have never said anything about any union?

A. We have had talks about the union, they have talked to me about the union, and stuff like that.

Q. You took part in the conversation, didn't you?

A. Yes, sir.

Q. That is what I am interested in, is what did you say. Do you recall any remarks that you made?

A. I don't recall any, no.

Q. Do you remember any conversation had with any men?

A. I don't believe I do. I had conversations about unionism with them, and stuff like that, but I don't remember.

Q. Don't you recall any man you ever talked to about it?

A. I talked to quite a few of them, yes, sir.

Q. Who? Name some of them.

A. Mr. Landry, Mr. Maindle; I wouldn't know any of the others by name.

Q. Do you recall any of the conversation you had with these two men that you mentioned? What did they say, and what did you say?

A. I wouldn't know, no.

Q. (By Mr. Lamfrom.) I can't hear what you are saying, at all.

A. We just simply had general conversation, that's 1109 all that I know of.

Q. (By Trial Examiner Batten.) Did they express their opinions about unions?

A. They expressed their opinions, of course.

Q. In the conversation, did you express your opinion?

A. Well, I never took any sides.

Q. I didn't ask you if you took sides. Did you express your opinion?

A. I don't know whether I have or not.

Q. Well, tell us what you said.

A. I don't know.

Q. You haven't any idea what you said?

A. No, sir.

Trial Examiner Batten: That's all.

(Witness excused.)

Mr. Rissman: Mr. Oristo.

RUDOLPH ORISTO, a witness called for and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination.

Q. (By Mr. Rissman.) Will you state your name, please?

A. Rudolph Oristo.

Q. Were you ever employed by The Falk Corporation?

A. Yes, since 1926 to 1933.

1110 Q. And what was your work there?

A. Grinder.

Q. During the time that you worked for The Falk Corporation, where did you work?

A. I worked maybe for six months in the shop assembling shop or floor.

Q. What was your last job there?

A. Grinding.

Q. Where was that work?

A. It was in a special shack built for the grinders, for the grinding machines, close to the machine shop. I worked all day long there.

Q. Nobody else worked with you in this special shack?

A. No.

Q. And what was the reason for having your work in a special shack separate from the other production departments?

A. Well, I learned that the dust from the grinding hurts the other machinists, so they removed the machine to another place.

Q. Directing your attention to approximately thirty days before your discharge in 1933, did you become a member of any labor organization?

A. Yes..

Q. Which one?

A. Machinists Union 66, affiliated with the American Federation of Labor.

Q. And you joined that union after the N. I. R. A. was enacted?

A. After that, at their first meeting.

Q. Relate to us, Mr. Oristo, the fact as to whether or not in your work in the special shack, doing this grinding, you ever had much occasion to see your foreman or supervising officials around, prior to the time you joined the union?

A. No; they came very seldom.

Q. And what was the fact after you joined the union?

Mr. Lamfrom: It appears here, Mr. Examiner,—I didn't know anything about these facts—but it appears so far that this gentleman was discharged in 1933. For what I don't know. Here is a proceeding, in the year 1937, under the Wagner law, in which this company is charged with some unfair labor practices, and specifically, among other things, that it discharged one Kinch for activities of that type.

Now, it appears from all that I can gather up to date, that this testimony is now, and as it proceeds, will probably be, entirely irrelevant, incompetent and immaterial to this proceeding.

Let us assume for the purpose of this discussion—

Mr. Rissman: Is this off the record?

1112 Trial Examiner Batten: Just a minute. Off the record. (Discussion outside the record.)

Trial Examiner Batten: That testimony on this matter will be received for this purpose only: To show the labor relations history of the respondent, not to prove, for instance, that this man is entitled to be or should be reinstated.

The only purpose for which it will be received is the same purpose for which we will receive testimony to show, over a period of years, the labor relations, attempts of unions to organize or not organize in the plant of the respondent, simply for purposes of labor relation history, and for no other purpose.

(Discussion outside the record.)

Trial Examiner Batten: I do think it is proper to show, within recent times, the history of labor relations of this plant, how they were handled, if they were handled, at all, but simply for that purpose.

Mr. Lamfrom: My objection has been noted, that I move that the testimony of the witness, to the present time, be stricken, and I object to the question of learned counsel on

the other side, on the ground it is incompetent, irrelevant and immaterial.

Trial Examiner Batten: Objection overruled, and it will be received for the purposes which I have stated.

Mr. Lamfrom: And the motion to strike is overruled?

1113 Trial Examiner Batten: That's right.

Q. (By Mr. Rissman.) Were you an active person on behalf of the International Association of Machinists, Lodge No. 66, during the time of your employment by The Falk Corporation, and after you joined the union?

A. Yes.

Q. Tell us, Mr. Oristo, what reason was given to you by your foreman for your discharge.

A. Well, that day I went for water; there was no water in the shack where I was working, I went to the power house with quart bottle, and coming back, I find in the shack I was working in Mr. Carl Senn.

Q. Who is he?

A. He is foreman, big boss in shop 2, he asked me where I had been, and I showed him bottle, I said, "I went to get some water."

He said, "Why didn't you go to machine shop to get water?" I said, "I have to have every little while a drink, and going to the machine shop is wasting time, so I bring it in bottle."

Q. Why didn't you get water in the bottle in the machine shop?

A. There are no faucets, I couldn't take in there the bottle.

Q. Where did you have to go to fill this bottle with water?

1114 A. I have to go to power house.

Q. And that is a little farther from your place than the machine shop?

A. Yes, that is farther.

Q. And he discharged you for being absent from your work too long?

Mr. Lamfrom: Just a minute.

Trial Examiner Batten: Let the witness testify why he was discharged.

Mr. Engelhard: Not only that, but he has not answered the question that was put to him, what did the foreman tell him. He never answered that question.

Q. (By Mr. Rissman.) Tell us what the foreman told you. Just finish your story.

A. What was my last?

Q. (By Trial Examiner Batten.) The question is, what did the foreman tell you when he discharged you, what did he say?

A. Yes. He asked me where I have been, so I explained I was for water, and he said why don't I go to machine shop, and I explained it is a wasting of time, so I bring in a quart of water, to have it handy there, and I told him I can't drink that water in machine shop, it is well water, there is too much iron in it, I prefer the city water which is in the power house.

1115 He said, "Well then, it is too bad for you if you can't drink that water."

I said, "What you mean?"

He said, "Well, you will see."

I said, "Do you intend to discharge me?"

He said, "You will find it out. Then he left my shop. He came back a little after I came back, and said, "You are discharged. Come along."

Q. (By Mr. Rissman.) And where did he take you? Where did you go?

A. Then he took me along to Machine Shop 2, there was Mr. Harold Falk. He came to Mr. Harold Falk, he said, "Mr. Falk, I have discharged this man. I have discharged this man, and he will tell you the rest."

Q. Did you tell Mr. Falk anything then?

A. Yes. Mr. Carl Senn left, and Mr. Falk was there, he asked me what was it, so I explained him, and after I explained Mr. Falk, I say, "Mr. Carl Senn didn't fire me for going for water, but he fire me because he knows I am active in organizing the men, and that is the reason that he discharge me."

Q. (By Mr. Lamfrom.) That is what you said?

A. What, please?

Q. You said that?

Q. (By Mr. Rissman.) You told that to Mr. Falk?
1116 A. I told Mr. Falk that Carl Senn didn't fire me for going for water, but because he knew I am active in organizing the men, and they would get organized; and Mr. Falk said, "Well, then, you are discharged."

Mr. Rissman: That's all.

Cross-Examination.

Q. (By Mr. Lamfrom.) How far was the power house from the place where you worked?

A. It was the whole length of the machine shop. I don't know how much is that. It is more than double I would have to go to get water in the machine shop.

Q. Is this the only time you went to the power house for water?

A. I went all the year I worked there, there was no water in the shop I worked. I went always:

Q. To the power house?

A. To the power house.

Q. And nobody ever told you not to go to the power house?

A. Never.

Q. Were other employees going to the power house for water?

A. I don't know for others.

Q. Did you ever see anyone working with you that went over to the power house?

A. I was working all alone, except I had too much work, and then I got a helper, so I don't know the other people, 1117 whether they went or not.

Q. Where do you work now?

A. Now, I am unemployed, since July 4th.

Q. July 4th of this year?

A. Yes. I was laid off from project.

Q. Where did you work before July 4th?

A. I worked on Educational Development Project.

Q. That was a Federal project?

A. That was a Federal project.

Q. And before that, where did you work?

A. I worked on Federal Theater.

Q. How long have you been working on Federal projects?

A. On each one about nine months.

Q. You left The Falk Corporation when?

A. In 1933.

Q. (By Trial Examiner Batten.) When in 1933?

A. In August, sometime the middle of August.

Q. (By Mr. Lamfrom.) Sometime the middle of August. Were you employed after that by any manufacturing concern here?

A. No.

Mr. Rissman: I object to this line of questioning.

Mr. Lamfrom: I want to find out about this witness. This is cross-examination.

Trial Examiner Batten: He may answer. I see no objection.

Q. (By Mr. Lamfrom.) You haven't been employed by any manufacturing concern since?

A. No.

Q. And you are not today, are you?

A. No.

Q. Are you on relief?

A. I am on relief.

Q. How long have you been on relief?

Mr. Rissman: I object to these questions, if the Examiner please.

Mr. Lamfrom: I want to find out about this man. I never saw him before.

Mr. Rissman: This man has no right to pry into his personal affairs. It has nothing to do with his employment at The Falk Corporation.

Mr. Lamfrom: All the surrounding circumstances of this man's life are pertinent to the story that he told here, with reference to his veracity.

Trial Examiner Batten: He has stated he is on relief, or has been on it. I don't know as it is particularly material how long he has been on it.

Q. (By Mr. Lamfrom.) You haven't had any job, outside of being on relief, if that is a job, and jobs with these Federal undertakings, since you left The Falk Corporation, have you? You haven't had any job with any private employer?

A. I didn't.

Q. What union are you a member of now?

A. Now the C. I. O.

Q. And this union that you were a member of at the time you were doing organizing work, as you have testified, at The Falk Corporation, was the American Federation?

A. Yes, sir.

Q. And how long have you been a member of the C. I. O.?

A. I don't know exactly. I think three months.

Q. And what union are you a member of?

A. The Falk Union.

Q. The Falk Union?

A. Yes, sir.

Q. You are not employed by The Falk Corporation?

A. I am not.

Q. What is The Falk Union, as you understand it?

A. I didn't get the meaning, what you mean.

Q. What is this Falk Union of which you are a member?

I mean, what is it?

A. It is a working organization.

Q. But you are not a Falk employee?

A. I am not.

Q. So that this union to which you belong, which you
1120 call the Falk Union, numbers among its members other
people beside Falk employees?

A. I don't know of any other.

Q. Are you the only one that is not a Falk employee that
is a member of the union?

A. I don't know.

Q. Did you make application to join this union?

Trial Examiner Batten: I don't think that is at all material. He is a member, and whether he made an application, or paid any dues, I don't think that is material, Mr. Lamfrom.

Mr. Lamfrom: If I may be politely permitted to differ with you.

Trial Examiner Batten: Because, Mr. Lamfrom, the Examiner restricted this witness' testimony simply for the purpose of showing the history of labor relations in The Falk plant.

Mr. Lamfrom: Exactly; and I am testing for veracity and motive.

Trial Examiner Batten: I don't think that has anything to do with motive and veracity, when he joined, or whether there are any other people there that are members that are not presently employed. I don't think that has anything to do with it.

Mr. Lamfrom: It is conceivable, if I may say so—and human relations have indicated such instances—that
1121 this man may have a grudge against The Falk Corporation for some reason or another, and has come up here to testify to certain facts and circumstances.

Trial Examiner Batten: I see no objection to your questioning to see whether he has such a feeling for The Falk Corporation that that may be the reason for his testimony. I have no objection to that.

Mr. Rissman: He may be entirely justified.

Mr. Lamfrom: That is your idea.

Mr. Rissman: It may be his.

Mr. Lamfrom: You are so nonpartisan in this case that your attitude is commendable. You always see both sides.

Mr. Rissman: I do not intend to be nonpartisan, Mr. Lamfrom.

Mr. Lamfrom: What do you intend to be?

Mr. Rissman: I intend to prosecute the complaint in this case.

Mr. Lamfrom: And you are an attorney for the National Labor Relations Board, aren't you?

Mr. Rissman: Certainly.

Mr. Lamfrom: And the National Labor Relations Board is hearing this case.

Mr. Rissman: My duty does not require me to be nonpartisan.

Mr. Lamfrom: Our duties do not require you to be a prosecutor.

Trial Examiner Batten: Do I assume, Mr. Lamfrom, from that, that it is your feeling that the Examiner is not qualified?

Mr. Lamfrom: The Examiner, I am satisfied, is amply qualified.

Trial Examiner Batten: In this case?

Mr. Lamfrom: Sure; not for one minute do I believe he is not. I am well satisfied with him.

Mr. Rissman: Do you question my qualifications, or any partisanship?

Trial Examiner Batten: Now, let us discontinue this, and get along with the witnesses in this case. I think we have wasted enough time in this case. Let's get down to some facts, and find out what it is all about.

Mr. Lamfrom: You will realize, too, we haven't had any witness on the stand yet.

Trial Examiner Batten: I am directing that to everybody within the hearing of the court.

Mr. Lamfrom: All lawyers desire to please the court.

Q. (By Mr. Lamfrom) You don't feel very friendly to The Falk Corporation, do you?

A. Why shouldn't I?

Q. Do you?

A. Don't holler at me.

1123 Q. Do you?

A. Please step over there.

Q. Do you?

A. Step over there, please. Don't come here to scare me. Don't come here and holler at me.

Trial Examiner Batten: Just a minute.

Q. (By Trial Examiner Batten) The question is, do you feel friendly towards The Falk Corporation.

A. Friendly or unfriendly?

Trial Examiner Batten: Will you read the question, please?

Q. (By Mr. Lamfrom) Do you feel friendly to the Falk Corporation?

A. Yes.

Q. Why?

A. Because I hope to get back my job some day.

Q. In other words, you have a good feeling towards The Falk Corporation?

A. I have.

Q. And that good feeling is brought about by the hope that will get your job back, is that right?

A. Yes.

Q. You want The Falk Corporation to feel friendly to you, don't you?

A. Yes.

1124 Q. For the purpose of getting your job back?

A. Yes.

Q. Now, when you were discharged by The Falk Corporation, did you feel friendly towards them?

A. Always.

Q. Always?

A. Yes.

Q. It didn't make any difference to you at all in your feeling?

Mr. Rissman: I object to Mr. Oristo's feeling in the matter. The facts have been stated. If there are any other facts, they should be brought out. He has stated he feels friendly to The Falk Corporation at the present time because he is hopeful of being reemployed there.

Trial Examiner Batten: What was the question?

Mr. Lamfrom: Are you testifying, or the witness?

Trial Examiner Batten: Read the question.

(Question read by the reporter.)

Trial Examiner Batten: I think he may answer that. I think the latitude of the questions the Examiner has per-

mitted in the last three days would permit the witness to answer that.

Q. (By Mr. Lamfrom) Do you remember the question?

A. No.

Mr. Lamfrom: Well, I will repeat it.

1125 Q. (By Mr. Lamfrom) At the time that you were discharged by The Falk Corporation, did you feel friendly to the corporation?

A. Yes.

Q. The fact that you were discharged because, as you claim, you were a member of the union, and were doing union organizing while you were working for them, did not make you feel at all unfriendly to the company?

A. No.

Mr. Lamfrom: That's all.

Mr. Rissman: That's all.

Trial Examiner Batten: Mr. Engelhard?

Mr. Engelhard: I have some questions.

Q. (By Mr. Engelhard) What is your present name, you say?

A. Oristo.

Q. When did you change your name?

A. I changed my name when I got my second papers.

Q. What was it then?

A. Goldmer.

Q. Goldman?

A. Goldmer, G-o-l-d-m-e-r.

Q. Goldmer?

A. Yes.

Q. Was that your name when you were employed by The Falk Corporation?

1126 A. The first time; and then I changed the name during the time I was still employed there, and they changed it officially to Oristo, it was made in the Registrar of Deeds' office.

Q. You sued The Falk Corporation, didn't you?

A. Yes.

Mr. Rissman: I object to that. This has no materiality on his discharge.

Trial Examiner Batten: He has answered it. He said "yes".

Mr. Rissman: I move that the question and answer be stricken.

Trial Examiner Batten: They may stand.

Q. (By Mr. Engelhard) You lost the case?

Trial Examiner Batten: I think that is immaterial, whether he lost or won the case, unless there is some foundation as to when the suit was, and what it was about.

Mr. Rissman: Yes.

Q. (By Mr. Engelhard) When did you sue The Falk Corporation? While you were working there, or after you were discharged?

A. After I was discharged.

Q. What was the suit about?

A. I was sick, I went to the company dispensary, and they sent me out from there.

1127 Q. You sued the corporation on the ground you claimed you were sick from silicosis, is that right?

A. Yes, sir.

Q. You lost that suit?

A. I don't know if is the suit lost yet.

Q. How long ago did you start the suit? How long ago did you start the suit?

A. I think it was in 1933.

Q. But you don't know now whether you have lost the suit?

A. I don't know yet.

Mr. Engelhard: That's all.

Trial Examiner Batten: Mr. Goldberg?

Mr. Goldberg: No questions.

Trial Examiner Batten: Mr. Clark?

Mr. Clark: No questions.

(Witness excused.)

Mr. Rissman: Mr. Kinch, please.

ANTON KINCH, a witness called for and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination.

Q. (By Mr. Rissman) Will you state your name, please?

A. Anton Kinch.

Q. Were you employed by The Falk Corporation, Mr. Kinch?

1128 A. I was.

Q. How long were you employed there, during what period?

A. I started there, I believe, late in 1929, about November, I believe.

Q. And how long did you work there?

A. Until December 31st.

Q. 1936?

A. Yes, sir.

Q. And in what position were you employed?

A. Erecting, in the erecting shop.

Q. During the time you were employed there, were you always employed in the erecting shop?

A. Yes.

Q. During the time of your employment in the erecting shop, had there ever been any serious complaints by foremen or others about the quality or nature of your work?

A. I never had any.

Q. What was the fact, Mr. Kinch, as to whether or not you worked during the depression?

A. I didn't get that question, please.

Mr. Rissman: Read the question, please.

(Question read by the reporter.)

The Witness: A. Yes, I worked all through the depression.

Q. (By Mr. Rissman) What was the fact as to 1129 whether or not other employees, with greater service records at the company, were employed or unemployed during the depression, while you were employed then?

A. I believe there were quite a few discharged, that is, laid off, older men than I was.

Q. Were there ever any complaints by the company regarding your relationship with fellow-employees, or with your supervisory foreman and others prior to 1936?

A. If there was, I don't know about it.

Q. You were never told of any?

A. No.

Q. Were you a member of the Works Council?

A. I was.

Q. When were you elected or appointed to that position?

A. I have the records here. Am I permitted to look at them?

Q. You may. What kind of records have you?

A. Of the dates.

Q. You may refer to your record, if the Examiner has no objection.

Trial Examiner Batten: I have no objection, if he has a memorandum there and he wants to refer to it.

Mr. Engelhard: That is all right.

Trial Examiner Batten: I do not assume there is an objection?

1130 - Mr. Engelhard: That is, I assume it is merely a memorandum of dates, not necessarily a memorandum of the testimony he is to give. You might ask him.

Q. (By Trial Examiner Batten) What is this, a memorandum you made at the time, or what is it?

A. As things went along, I made a memorandum of things that took place of importance, because I had that custom.

Q. You made this memorandum at the time these things happened?

A. Yes.

Trial Examiner Batten: Is there any objection? I guess there is no objection.

Mr. Engelhard: It seems to me, your Honor, that a man should not be permitted to testify from a memorandum.

Trial Examiner Batten: It seems strange to me that you should be the one to object to it, as I think I recall the other day you brought a memorandum up to Mr. Falk to refer to during his testimony.

Now, it seems to me, if one witness is entitled to that privilege, they all are.

Mr. Engelhard: I don't recall any memorandum that I handed him.

Trial Examiner Batten: And I very distinctly remember that you brought it up here and suggested he could use that for the purpose of refreshing his memory, and no one 1131 had any objection to it.

Mr. Laufrom: That was a document recording a particular proceeding.

Mr. Rissman: So is this memorandum.

Trial Examiner Batten: I don't recall what it was. At any rate, the Examiner will permit him to refer to his memorandum, not for the purpose of reading it, but for the purpose of reference. You may refer to it.

The Witness: What was the question, please?

(Question read by the reporter.)

Mr. Engelhard: Just a minute, Mr. Examiner. May I see what he has there?

Trial Examiner Batten: Yes.

Q. (By Mr. Engelhard) Do you mind me looking at this?

A. That's all right.

Q. You have here sheets numbered 1 to 13?

A. Yes.

Q. Were those sheets made at the same time?

A. No. They were made a few days later. Those sheets were written in Florida, copied from different memorandums I had.

Q. This is a written story, isn't it?

A. I don't think it is a story.

Q. It gives everything that occurred over a period of time? I mean, over a certain period of time, you have
1132 got everything in there?

A. During my term of office, yes.

Q. You wrote that when you were down in Florida?

A. Yes.

Q. When did you write this, what was the date?

A. I would say about four or five weeks ago.

Q. In other words, four or five weeks ago you wrote these thirteen pages of memorandum. And you say you took that from what?

A. Well, different small memoranda that I made the day after the meeting, the day after the occurrence. Say, for instance, something took place today, tonight probably I would go home and make a memorandum, because I would remember what took place.

Q. Have you got the original memorandum here?

A. Some I have, yes.

Q. Have you got all of them here?

A. Some of them are not just as legible as they should be, so I wrote them, that's all; and paged them, so I could refer to them.

Mr. Engelhard: Do I understand, Mr. Rissman, it is your purpose to have Mr. Kinch refer to this memorandum whenever you ask him a question about details?

Trial Examiner Batten: I don't think there is any such objection?

1133 Mr. Engelhard: No, if it is just a matter of referring to this in order to get dates, I would not object.

Trial Examiner Batten: I think the Examiner stated he may refer to it for the purpose of dates, but not for the purpose of answering questions, or reading the memorandum.

Mr. Engelhard: I would not have any objection to that.

Trial Examiner Batten: But merely as a matter of reference. Was that last question answered?

The Witness: A. He asked the question, but I was interrupted.

(Question read as follows:

"Q. When were you elected or appointed to that position?")

The Witness: A. I was on the 10th of June, so that would be on the 9th of June, I was elected.

Q. (By Mr. Rissman) Who told you that you were elected?

A. I wasn't notified officially, it was just one of the boys I learned from in the shop how the election came out.

Q. Did you have any conversation with any of the supervisory officials of the plant prior to your appointment or election to the Works Council, regarding it?

A. Yes.

Q. Which employees?

A. Mr. Henderson and Mr. Hydar.

1134 Q. Who is Mr. Henderson?

A. He is superintendent of the erecting shop.

Q. And Mr. Hydar is the gentleman who testified here the other day?

A. Yes.

Q. What was the conversation they had with you, and when was it, as closely as you can remember?

A. That was on the 5th of June, about 10:00 o'clock in the morning.

Q. What year, Mr. Kinch?

A. 1936. Mr. Hydar and Mr. Henderson came to see me.

Q. What did they say?

A. They wanted to know why I wouldn't run for the office or accept a position on the council. That is really the words they used.

Q. Accept a position on the Works Council?

A. Yes.

Q. Had you been nominated for a position on the Works Council?

A. No.

Q. What did you tell them when they asked you that question?

A. I told them I wouldn't.

Q. What else? Just tell us the conversation that took

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place between you, Mr. Hydar and Mr. Henderson on that day.

A. I stated that I positively would not accept it, 1135 wouldn't consider it, and Mr. Henderson asked me why, and I told him I didn't care to be a rubber-stamp for the corporation.

Q. What else was said?

A. Then Mr. Hydar started, and told me that I was all wrong. "Why", he says, "Mr. Harold Falk is far more broadminder than you think." He says, "We are anxious to get men that know something about the business, that could fight and would fight for the men," and he went on to state different things that took place during the three years that the council was in operation, and so forth; and it was about 12:00 o'clock when they got through. That is, he wasn't through, I really stopped him.

Q. And what did you tell him at that time?

A. I said, "Mr. Hydar, if Mr. Harold Falk knew me as I know myself, I would be the last man that they would want to serve on the council."

Q. Did Mr. Hydar say anything to that?

A. "Well," he said, "he wants you, and the men want you." He said, "They both seem to think that you are the right man." "Well," I said, "there is no other alternative for me, if they think that, then. You know my views."

Q. And did you express your views to them?

A. Yes, I expressed my view, I told them I would not be a rubber stamp for anybody.

Q. Did you explain more fully what you meant when 1136 you said you would not be a rubber stamp for anybody?

A. Well, when he said that, that is, when he began to tell me about Mr. Falk being broad-minded, and that I was all wrong on it, I also told him that if they ever got me there, they have to stand the consequence.

Q. When was the first time that you attended a meeting of the Works Council after that conversation?

A. There was a meeting two days later, on Thursday, which would be on the 11th, I believe.

Q. The date is not important.

A. But it was not official, that is, as far as myself was concerned. I was merely asked to go there, and listen to the procedure and the methods and parliamentary rules, and so forth.

Q. And did you attend Works Council meetings regularly thereafter until the time of your discharge?

A. Yes, sir.

Q. What is the fact, Mr. Kinch, as to whether or not you were at any time, or many times, in agreement or disagreement with activities of the Works Council, as expressed by you at Works Council meetings?

A. Well, one of my first objections was that there was too much time taken up on the canteen business.

Q. Did you express that objection?

A. I have, very strenuously.

1137 Q. Can you relate to us some of the other objections you expressed over the period of months that you were a representative on the Works Council?

A. They are so numerous.

Q. (By Trial Examiner Batten) The question is, can you relate some of them.

Q. (By Mr. Rissman) Some of them, those that stand out in your mind.

A. The first one was when Mr. Jones, one of the members of the council, asked for a raise.

Q. Mr. Jones was an employee representative?

A. Yes.

Q. Or a management representative?

A. An employee representative. I seconded his motion, of course, and the next day Mr. Wolf,—I believe his name is John Wolf—

Q. Yes.

A. (Continuing)—a member of the council, came to see me in No. 3 shop, and told me that he got hell from Mr. Green.

Q. Who is Mr. Green?

A. Superintendent of the machine shop, for voting in favor of the motion. He said that Mr. Green claimed that in one of the previous meetings our predecessors and other members of the council agreed to not ask for a raise for 1936 if they were given, or rather, when they were given, that raise of 5 per cent.

1138 Q. Can you relate to us any discussions had by you with other presentatives of the Works Council, at Works Council meetings, relating to wage increases or bonuses?

A. You mean at the meetings of the Works Council themselves?

Q. The Works Council, yes.

A. We usually met two or three days—I believe first it was the day before the meeting of the council, and we of course discussed various things that we thought were of interest.

Mr. Goldberg: A little louder, please, Mr. Kinch.

The Witness: A. To the interest of the employees or workers, and it was thoroughly understood at this meeting that this raise was going to be proposed. Nobody said at that meeting that such a promise had been made.

Q. (By Mr. Rissman) You are now talking about this raise that was requested by Mr. Jones?

A. Yes.

Q. Were there any other instances aside from that where you and the management and representatives of the council were in agreement or disagreement on the nature of the payments of a bonus to all employees?

A. Yes, but that was following this argument, was the question of the firm losing money, that was the next argument.

Q. How was that made known to the Works Council?

1139 A. When this raise was asked by Mr. Jones, Mr. Pritzloff took the floor.

Q. Who is Mr. Pritzloff?

A. Mr. Pritzloff is superintendent of the foundry.

Q. Go ahead.

A. He took the floor and stated that we was making a terrible mistake, that the firm was losing money, and it would be impossible for the firm to meet any such a demand. He said that his department alone, the foundry, was losing an average of \$25,000.00 a month, and went on to state many things about how they were losing money.

I asked him, I said, "Mr. Pritzloff, how do you account for those losses, how those losses occurred?" Well, he said he didn't know, he said he gets his report from the office.

I said, "Well, you being superintendent of the Works, it seems to me you ought to know something about it." Well, all he knows is that he gets the statement from the office, and he goes by that, that they been losing \$25,000 a month, I don't know for how long.

Q. Was there any investigation made by you or any other members of the Works Council to determine whether or not the company was making or losing money at that time?

Mr. Lamfrom: Just a minute. He didn't testify to that. He said a loss of \$25,000.00 a month in the foundry.

1140 Trial Examiner Batten: Will you read the question, please?

(Question read by the reporter.)

Trial Examiner Batten: Is there any objection that question?

Mr. Engelhard: He assumed that the man testified that the \$25,000.00 a month was a loss of the entire business.

Trial Examiner Batten: I certainly didn't infer that. The question is, did he make any investigation to determine whether or not the company was losing money.

Mr. Lamfrom: Standing that way, of course, there is no objection.

Trial Examiner Batten: That is the way I understood him, is whether he made an investigation to determine whether or not the company was making or losing money at that time.

Mr. Rissman: The witness has testified that Mr. Pritzloff said at the meeting that "the company is losing money. In the foundry alone, it is losing \$25,000.00 to \$30,000.00 a month."

I now ask if there was any investigation made to determine whether or not the company was making or losing money.

Trial Examiner Batten: Isn't that just the way I stated it?

Mr. Rissman: Yes.

Trial Examiner Batten: You may answer.

1141 The Witness: A. May I be permitted first to finish what took place when Mr. Pritzloff said they were losing money?

Trial Examiner Batten: Was there some further talk or conversation?

The Witness: Yes.

Q. (By Mr. Rissman) You may finish it.

Trial Examiner Batten: Tell us what it was.

The Witness: A Mr. Green took the floor and stated that the machine shop would just about make enough to offset the losses in the foundry.

Q. (By Mr. Rissman) Now, can you answer my question?

A. Now, yes.

Trial Examiner Batten: You may answer that question.

The Witness: I don't know just what it was.

Q. (By Trial Examiner Batten) The question is, did you make any investigation to determine whether or not the company was making or losing money?

A. Yes, I have.

Q. Tell us what you did, and what you found.

A. The first thing I done was, I went to Madison, Wisconsin, on the 20th of June.

Q. (By Mr. Rissman) 1936?

A. 1936, to look over the income tax reports of The Falk Corporation, and to see for myself if there was such a loss.

Q. What did you find, if anything?

1142 A. I found that there was some losses in the foundry, but not to that extent.

Q. Did you report the results of your investigation to the employees or to the OWB Council, either one?

A. No, nothing generally, only when discussion came up, I would say, "Why, naturally, Mr. Falk always was broadcasting around about losing money, losing money," and everybody felt like they were living on charity.

Mr. Lamfrom: I suggest that the witness' conclusions be eliminated. He is enthusiastic enough, without giving his conclusions.

Trial Examiner Batten: I do not presume that his statement will have any effect on the Examiner.

Mr. Lamfrom: Perhaps not, if you insulate yourself from that, we will probably get along very well. You know, occasionally, enthusiasm gets a fellow.

Q. (By Trial Examiner Batten) Will you proceed and tell us, then, what investigation you made, and what you found, please?

A. Well, I found that the foundry did show some losses on their report, as the report read, that is, showed; but that, as a whole, the company was doing very well.

Q. (By Mr. Rissman) Did you make any use of this information you found in the income tax reports of the company at Madison, Wisconsin?

1143 A. Of course, I made use of it.

Q. In what way have you made use of it, Mr. Kinch?

A. In forming my proposal. I couldn't do it any other-wise.

Q. Tell us about the item you refer to as your proposal. What was it, when did it occur, and what conversation you have had with company representatives?

A. It was sometime in October, I believe, around the 5th.

Q. (By Mr. Lamfrom) 1936?

A. 1936, yes.

Q. (By Mr. Rissman) All of your conversation about ac-

tivities of the Works Council, and your proposal, are in the year 1936?

A. Yes, all of them.

Q. Go ahead.

A. Mr. Henderson came to me, it was about twenty minutes, probably, to 12:00.

Q. Who is Mr. Henderson?

A. He is a foreman or superintendent of the erecting shop; and told me that Mr. Harold Falk wanted to see me. I said, "Wanted to see me?" I asked him. I said, "I didn't know that Mr. Falk knew that I worked here." "Well, he wanted to see you."

And, if I may be permitted to use a word that he used as I started out, without flattering myself, or patting myself on the back, this is the words that he used:

1144 Q. (By Trial Examiner Batten) Who used?

A. Mr. Anderson—I mean, Mr. Henderson.

He said, "Well, if they want somebody on the Council that knows something about the business, they have mighty well got it."

Q. Go ahead, tell us, when you got to Mr. Falk's office, what was said.

Q. (By Mr. Rissman) What conversation was had between you and Mr. Falk on that day?

A. As I entered the office, he said he sent for me because he understood I knew something about the business, and he looked at a vacant chair that was next to him, and asked me to be seated.

Q. Tell us the conversation you and Mr. Falk had.

A. He had in front of him what seems like the monthly balance sheet, and he began to point out to me the losses that they were suffering. He said, "Last month, we lost around \$18,000.00," and he said, "you fellows in the shop seem to think we are making plenty of money."

I said to Mr. Falk, "I think your bookkeeper made a mistake."

He kind of looked at me with surprise, and I told him, I says I have a financial report on them what I thought was authentic, and I didn't see anything in there that he should worry about the financial status of the company, and

1145 then he said something else, and he pulled out his match, he said, "By Jove, I have an appointment downtown to lunch, a lunch appointment," or something, "can I see you tonight, or this evening?"

"On this proposition?", I asked him.

He said, "Yes."

Q. (By Mr. Rissman) What proposition do you refer to Mr. Kinch?

A. On this financial status of the company, he wanted to acquaint me with their business.

Q. What did Mr. Falk say?

A. He said "yes". I said, "If you want to see me on this proposition; I would rather you would see me on my own time."

He said "Why?"

I said, "Well, I would rather have it on my own time."

"Well," he said, "all right. How about tonight?"

I said, "No, Mr. Falk, I can't do it tonight. How about tomorrow night?"

"Tomorrow night is okay," he said. "What time tomorrow night?"

I said, "4:30."

He said, "Well, why not come here at 4:30?"

I said, "That will be all right with me." So I arrived the next day at his office, about twenty minutes to 5:00. Mr. Herman Falk was sitting right beside him.

1146 Q. Who is Mr. Herman Falk?

A. Mr. Herman Falk is the president of The Falk Corporation.

Q. Go ahead, tell us the conversation that was had at that meeting.

A. Well, there was so much of it. It started about twenty minutes to 5:00, and lasted to 7:00, so there was quite a bit of it.

Q. What was the subject matter discussed?

A. Oh, the whole substance was that their efforts was bent towards convincing me that they were losing money. Well, of course; I began to point out to them the money that they was making.

Q. Did you inquire why they wanted to convince you that they were losing money?

A. I believe I did say that I was working in the shop, and that I didn't see any good could be had from me knowing those things; that after all I was working in the shop, and me knowing anything about the business was really no help to them, I couldn't see it.

Q. (By Trial Examiner Batten) Who said that?

A. I said that to Mr. Falk.

Q. (By Mr. Rissman) Was there any answer to that?

A. Well, he says, "You are a member of the Council." I said, "Yes, that is true, but even then, I don't say anything." Well, they kept on pointing, and telling me of 1147 what they lost, and how they lost it, and I finally got pretty tired of it.

Q. (By Mr. Lamfrom) You got tired of it?

A. Yes.

Mr. Lamfrom: Yes.

The Witness: And I says to Mr. Falk, I said, "Mr. Falk, you have been preaching here about all the money you are losing," I says, "you are not losing any money. You are making money, you have been making money."

"Oh," he says, "we haven't made anything since 1929."

"Well," I says, "you have made pretty good in 1929."

"Well, not so good."

So I mentioned the figure, and I asked him if I was right. He said, "Yes, that is near right."

Q. (By Mr. Rissman) Did you have a memorandum with you containing the figures?

A. No, I didn't.

Q. You knew them from memory?

A. Yes.

Q. And Mr. Falk indicated that the figures you mentioned were correct?

A. That they were close, yes.

Q. (By Mr. Lamfrom) The 1929 figures?

A. Yes; but later I mentioned others.

Mr. Lamfrom: Well, I mean just as far as you have 1148 gotten now.

Q. (By Trial Examiner Batten) Go on and tell us what happened at this meeting, now.

A. So he then insisted that they haven't made any money since. So I told him, in fact, I told Mr. Falk, "Even in 1930 and '31 you did well, didn't you?"

Mr. Engelhard: I can't hear what you are saying, Mr. Kinch. Talk a little louder, please.

The Witness: I said to Mr. Falk then, "Well, you made pretty good in '30 and '31, didn't you?" He said, "Well, I don't know that we made any money then."

I said, "Well, I think you made some money." And I didn't see really any sense in getting in any argument with them. After all, they were my boss.

Q. (By Mr. Rissman) Well, just tell us what occurred then.

A. That was all there was to it.

About 7:00 o'clock, I said to Mr. Falk that I had a proposition that I was working on, and that was the reason I got that information; it wasn't any use to form any proposition on an empty pocketbook, I wanted to see if there was anything in it.

Q. (By Mr. Lamfrom) Whose pocketbook is it your referred to?

A. Mr. Falk's, of course; not mine.

Q. Yours wasn't empty, evidently.

1149 A. He asked me what the proposition was. I explained it to him roughly, classification, and I told him I thought that was one of the biggest troubles he had in the shop, was dissatisfaction, the men was dissatisfied because it was not classified. In other words, my contention was that the men, many men in the shop, wasn't getting what they were really entitled to, some was and some wasn't, and naturally, that caused dissension between the men, and wherever anything like that exists, there is bound to be dissatisfaction.

Q. (By Trial Examiner Batten) Are you repeating now what you told Mr. Falk?

A. Yes.

Q. (By Mr. Rissman) Go ahead.

A. And Mr. Falk says, Mr. Herman Falk said, that he thought of a proposition of that kind once, but that he didn't think it would work.

He says, "You know," he says, "men in the shop are rather jealous of their hourly rate, and if a classification would take place, naturally it would reveal the hourly rate to one another."

I said, "Well, that is the best thing about the proposition."

Q. Then you discussed various details of this proposition?

A. Yes, various phases of it.

Mr. Lamfrom: He is telling what he told Mr. Falk
1150 and what Mr. Falk told him. That is what we are interested in.

Q. (By Trial Examiner Batten) When you left, what was the arrangement? Were you to see him again?

A. Mr. Falk said then, "Reduce your proposition to writing, and we will see how it looks."

Q. Did you leave then?

A. Well, a few minutes after; we talked about something else.

Q. Did you make an appointment then to come back?

A. I didn't. I will tell you why.

Q. I don't care why. What I am interested in, is, did you make an appointment.

A. No, I didn't.

Q. (By Mr. Rissman) Mr. Kinch, did you promise Mr. Falk that you would come back with this proposal reduced to writing?

A. No, I didn't.

Mr. Lamfrom: Mr. Falk didn't testify he promised. Mr. Falk testified he said he would come back.

Q. (By Mr. Rissman) Did you say you would come back?

A. No, I didn't.

Q. (By Mr. Lamfrom) Did Mr. Falk ask you to come back?

A. No.

Trial Examiner Batten: We will take a ten-minute recess.

1151 (A short recess was thereupon taken.)

Q. (By Mr. Rissman) Did Mr. Falk ask you to return after this meeting you have just been testifying about? At the meeting, did he ask you to come back at some later time?

A. No. He just said, "Let's see it when you get it, when you reduce it to written form."

Q. (By Mr. Lamfrom) And did you say you would let him see it?

A. No, I didn't.

Q. (By Mr. Rissman) What was the next step, what else did you do after that in connection with this proposal or proposition that you had?

A. After that, I consulted many workers in various departments about the proposition, what they thought of it, and they seemed to be in favor, so that I put it in writing, and a couple of times at noon, right after lunch time, several of them got together—several of us got together, and I let them read it, and make suggestions, if there was any, and after everybody seemed to put their okay on, I had it written, and made several copies of it, I believe I made seven copies of it.

Q. What did you do with the copies?

A. I attached, I believe, five or six sheets of paper, to each one, then, I don't exactly remember the date, but it was at noon one day that I called on several representatives, workers' representatives of the Council, and gave them the proposal to which the sheets was attached to it, and asked them to read it to their men during the noon-time, and get their approval or disapproval of it, which they agreed to do.

Q. Mr. Kinch, what other sources of information did you seek or consult, in addition to the income tax reports of the company, when you were preparing your proposal or your proposition?

A. I wrote to a number of competitors of Mr. Falk, or rather, people that are in a competitive business.

Q. I hand you herewith Board's Exhibit No. 28 for identification, and ask you to describe it for us, and tell us what it is.

Trial Examiner Batten: What is it? Tell us what it is.

Q. (By Mr. Rissman) Tell us for the record.

A. It is a letter I wrote.

Q. To whom?

A. This particular one was written to the Philadelphia Gear Corporation.

Q. In Philadelphia, Pennsylvania?

A. Yes.

Q. Asking them for the number of hours they work per week?

A. Yes.

Q. The pay for overtime?

1153 A. Yes.

Q. The average hourly wage for mechanics?

A. Yes.

Q. And the average hourly rate for helpers?

A. Yes.

Q. And other such information?

A. Yes.

Q. And they sent you that information as indicated on that letter?

A. Yes.

Q. I hand you herewith Board's Exhibit No. 29 for identification, which is a letter to the D. O. James Manufacturing Company, 1120 West Monroe Street, Chicago, Illinois, signed by you, and ask you if that was a letter written for the same purpose, that was received by you with the same

information, similar information, as that contained on the letter to the Philadelphia Gear Works?

A. Yes. They all were written at the same time.

Q. (By Mr. Lamfrom) The same kind of a letter, is it?

A. Yes. I have written two more that I didn't get reply to.

Q. (By Mr. Rissman) Do you recall to whom you wrote, and did not get a reply?

A. Yes.

Mr. Engelhard: May I ask, Mr. Rissman, whether 1154 these exhibits are replies received by him, or are they his carbon copies?

Mr. Rissman: They are a combination. It is the original letter written by Mr. Kinch.

Trial Examiner Batten: In the form of a questionnaire?

Mr. Rissman: In the form of a questionnaire, with blank spaces, and returned by the original addressee, with the information filled in.

Mr. Engelhard: Oh, I see.

Mr. Rissman: Together with the envelopes, and the necessary post office postmarks, in which Mr. Kinch received his replies.

Q. (By Mr. Rissman) Will you tell us now the other companies you wrote to that did not answer?

A. The Boston Gear Works, Inc.

Q. Where is it located?

A. North Quincy, Massachusetts.

Q. Who else?

A. The Horsburgh & Scott Company.

Q. Where are they located?

A. 5112 Hamilton Avenue, Cleveland, Ohio.

Q. Did you write the letters to those companies on the same date, June 19, 1936?

A. Same date, yes.

Mr. Rissman: I offer Exhibits 28 and 29 in evidence. 1155 Trial Examiner Batten: If there is no objection, they will be received.

(No response.)

(Whereupon, the documents above referred to, marked BOARD'S EXHIBITS NOS. 28 AND 29, were received in evidence.)

Q. (By Mr. Rissman) Did you yourself go around the plant with these copies of your proposal, asking men to sign?

A. I didn't get the question.

(Question read.)

The Witness: A. I didn't.

Q. (By Mr. Rissman) What other information did you seek, and tell us the sources, with reference to earnings of the company, or wages that should be paid employees on particular jobs?

A. Well, of course, I inquired from different people that I know what different plants in town were paying, the rates.

Q. Did you ever inquire from any public agency or government agency, other than the Income Tax Division of the State of Wisconsin?

A. Well, yes, I did investigate some personal income tax here in Milwaukee, in West Allis.

Q. Did you ever inquire or get any information from any Federal Government divisions or departments on work being done by The Falk Corporation?

1156 A. No, I did not, only from a few men in the shop, I don't recall just what it was, about certain contracts in Mississippi, for the Mississippi dam, or something like that, down here near Monroe.

Q. Monroe, Wisconsin?

A. Yes. That was in '33, I believe, or '32, or '34.

Q. I am referring now to the period when you were a member of the Works Council.

A. No.

Q. During the time that the other men were obtaining the approval or disapproval of your plan among the employees, did any supervising official ever complain to you about it?

A. The first day that the proposal went out, when I gave it, when it was passed to the representatives of the workers, it was passed at noon, and at about 1:00 o'clock or perhaps a little later, Mr. Green came.

Q. What did Mr. Green say?

A. He told me that I was making a grave mistake. I says, "About what?" "Passing those petitions."

"Well," I said, "Mr. Green, those are not petitions. In my opinion, that is merely a letter written to the management, to which I asked the approval of the men who are concerned."

He said, "Well, Mr. Harold Falk don't like it. You had better withdraw it."

1157 I said, "Mr. Green, I am representing men, not management."

Q. Mr. Kinch, will you at this time tell us what you understood to be your duties and obligations as a representative of the men on the Works Council?

A. To hear complaints of the workers, and try to correct them.

Q. And what is your obligation or duty to the men, as you understand it, or as you did understand it at that time, with reference to your consultation with them on any matters that you thought were of interest to the workers?

A. Well, that complaint came to me, I went out to investigate it, and if it would require any attention, I brought it up before the Council. If it didn't, I just told the men, "Well, nothing to it."

Q. After you told Mr. Green that you were working for the interests of the men, and not the company, was there any further conversation between you?

A. No, he left, and about an hour later, he came back and told me that Mr. Harold Falk wanted to see me.

Q. Did you go to see Mr. Falk?

A. Yes, I went to see him immediately.

Q. What conversation was had between you then?

Trial Examiner Batten: When was the date of this conversation with Mr. Falk?

1158 Q. (By Mr. Rissman) Do you recall the date?

A. That was the first part of October, around the—I had the date in mind, but I don't know exactly. I made a note of it.

Trial Examiner Batten: Well, that is close enough.

The Witness: The first part of October.

Q. (By Mr. Rissman) The month of October?

A. Yes, about the 5th or 6th.

Q. That is the first meeting?

A. Yes.

Q. We are talking now about the meeting with Mr. Falk, when Mr. Green came to you and said Mr. Falk didn't like what you had done.

A. That was it.

Mr. Engelhard: Just a minute.

Q. (By Mr. Engelhard) You testified October 10th, about October 10th was the time you had this conversation with Mr. Falk?

A. Well, I had several. That was perhaps on—the first meeting that I had with Mr. Harold Falk was on Monday, I don't recall just what date, but it was Monday, and a date was made for the following day by Mr. Herman Falk.

Q. (By Mr. Rissman) We are now talking about the time later than that, when you have testified the men were

giving their approval or disapproval of your plan by signatures, and Mr. Green came to you and said something to you about it being improper for you to circulate a petition.

A. Yes.

Q. When was that, what date was that, approximately? How long after your first meeting with Mr. Falk?

A. It wasn't very long, I guess. I don't know. It might be two or three weeks.

Q. That's right. So it would be sometime near the end of October?

A. Somewhere around there. I made a note of it, but I can't recall the date, that being six or seven months ago, — six months ago.

Q. At that time, in the latter part of October, you say about an hour later someone told you to go and see Mr. Falk?

A. Yes.

Q. Did you see him?

A. Yes.

Q. What conversation was had between you at that time?

A. The very words that I used as I entered, I said to Mr. Falk, "Do you want to see me, Mr. Falk?" He says, "yes."

Then he nodded his head, he said, "I don't like it a damn bit, that petition you are passing around."

I said, "What is there about it that you don't like?"

"Well," he said, "I don't like it."

"Well," I said, did you see it?"

1160 "Yes, I read part of it."

"Well," I said, "what don't you like about it?"

"Well," he said, "I don't like that last paragraph, especially."

I said, "Well then, you did read it all the way through."

Q. (By Mr. Lamfron) You said that?

A. Yes. I said, "Mr. Falk," I says, "I am representing men. I can't help it you don't like it, but I believe, if you read it over again, that it is not so bad as it seems at first. Have you got a copy of it?"

He says, "No."

"Well," I says, "where did you see it?"

"Some of the fellows showed it to me," he says.

"Well," I said, "I will leave you a copy on my way home, and you read it over, and if there is any objection, why," I says, "that could be discussed at the meeting, and straightened out."

Q. (By Mr. Rissman) What meeting did you refer to?

A. The Council meeting, which was the proper place to present it.

Q. Did you leave a copy with Mr. Falk?

A. I did that evening, on my way home.

Q. Was the proposal ever brought up at the Works Council meeting?

A. It was.

1161 Q. Subsequent to this date?

A. Yes.

Q. Was there discussion on it?

A. Yes, quite a bit.

Q. Was there a vote taken on it?

A. I wanted to take a vote on it, but Mr. Chairman wanted to refer it to the Fact-Finding Committee.

Q. (By Trial Examiner Batten) Who was the chairman?

A. Mr. Green.

I told Mr. Green that the Fact-Finding Committee had been abolished, and I didn't think they could take it up again. He said it wasn't. I looked at the minutes. I don't recall the date, I did have it then, I said, "Refer to the minutes," and they looked it over and found I was right.

Then he says, "I don't see anything to be gained with this." He said, "I take it, if you fellows want to get anything, you should ask for a raise."

Q. (By Mr. Rissman) Mr. Green said it?

A. Yes. I said, "We did ask for a raise," and I said, "It didn't meet with approval. Somebody promised they wouldn't ask for a raise this year."

Q. What was done with reference to the proposal at the Works Council meeting?

A. Well, it was submitted to the—that is, we were told it would be submitted to Mr. Falk for his consideration, 1162 and he was to reply, make a reply to it, and it would be then put in the record, with his reply.

Q. Was that done?

A. It was.

Q. When was it done, approximately?

A. In the December meeting, I believe. I am not sure whether it was the December meeting, I believe it was, though, the December meeting.

Q. Wasn't that November that this discussion took place?

A. Yes.

Q. And the reply came out when? In December?

Mr. Engelhard: You have already produced the proposal.

Mr. Rissman: Is that in evidence?

Mr. Engelhard: Yes, that is in evidence, the proposal and the reply, and I believe also a copy of the minutes of the December meeting, of December 10th.

The Witness: Yes.

Mr. Rissman: The December minutes?

Mr. Engelhard: The December minutes.

Mr. Rissman: I remember introducing the minutes, but I don't know whether it was November or December.

Mr. Engelhard: December 10th.

Q. (By Mr. Rissman) Just tell us generally what the reply was, was it acceptance, or denial, or was it partial acceptance, or partial denial?

1163 Mr. Lamfrom: It is in here.

Trial Examiner Batten: It is Exhibit 24.

Mr. Lamfrom: It is in here. It is the best evidence.

Trial Examiner Batten: Exhibit 24.

The Witness: There was one objection that I had to the minutes.

Q. (By Mr. Rissman) What objection did you have to the minutes?

A. There was a statement made misquoting me in the debate that we had in the office with Mr. Herman Falk and Harold Falk. I made a statement to them—

Mr. Engelhard: Just a minute.

Q. (By Mr. Engelhard) Do you refer to the minutes, Mr. Kinch, a statement in the minutes?

A. The report of the meeting, the minutes, yes.

Q. Have you read the minutes of December 10th?

A. Of course I have.

Mr. Engelhard: Suppose you show him a copy, and see whether there is.

Q. (By Mr. Rissman) You say you recall now, or knew at the time you read it, that there was a misstatement in the minutes?

A. I called that to their attention.

Q. I hand you herewith Board's Exhibit No. 24, and you if those are the minutes you refer to?

1164 A. Yes.

Q. And you state that in those minutes there is an error, or a misquotation?

A. Yes. This misquotation was not accusing me directly. I merely stated at this meeting that I believed that was di-

rected at me, and I wanted to make a correction. If it wasn't me, it was okay.

Q. You mean this is what you said at the meeting, or do you want the correction now?

A. I wanted to correct that at this meeting, this paragraph here, the first part of the paragraph.

Q. (By Mr. Engelhard) Are you referring to the minutes, or are you referring to Mr. Harold Falk's reply to your proposal?

A. To Mr. Harold Falk's reply to my proposal.

Mr. Engelhard: Then the record will show that is what he is talking about, not the minutes of the meeting.

Q. (By Mr. Engelhard) You were saying the minutes of the meeting were not correct?

A. This is about my proposal.

Q. Do you know what is meant by "Minutes of meeting"?

A. Yes.

Q. That is this sheet here, isn't it?

A. Yes.

Q. Is there anything incorrect in the minutes of the 1165 meeting?

A. Isn't that included?

Q. Is there anything incorrect in the minutes of the meeting?

A. No.

Q. (By Mr. Riseman) The minutes of the meeting of December 10, 1936, marked Board's Exhibit 24, include, as part of those minutes, the proposal and the reply of the company, do they not?

A. Yes.

Q. And in the reply of the company, you state that there is a misquotation?

A. Yes.

Mr. Lamfrom: Well, what is it?

Q. (By Mr. Rissman) Tell us about it.

Q. (By Mr. Engelhard) Will you read the quotation that you say is wrong?

A. "One of the Council representatives made a statement that our men could easily do 30 per cent more work than they are doing."

Q. (By Trial Examiner Batten) What is incorrect about the statement?

A. The statement I really made was this, that if the fear was lifted from over the men's heads and replaced with

proper incentive, I told them that production would be increased 30 percent.

Q. (By Mr. Rissman) What fear?

A. The fear of a man losing his job, the dissension caused by inequality of wage.

Q. Then the statement as it appears in this reply was not the same as you made it?

A. No. It does not refer to me there, but I assume that it does.

Q. Did any other Council representative at the meeting state the men could easily do 30 percent more than they are now doing?

A. No, not to my knowledge.

Q. Following action by the Council on this proposal, did you ever have any further conversation with Mr. Falk, or Mr. Green relating to this proposal?

A. Not to the day I was discharged.

Q. What happened on the day of your discharge, tell us what it was?

A. About 11:30, or perhaps twenty minutes to 12:00, Mr. Dukas—

Q. What date?

Trial Examiner Batten: What date?

The Witness: A. On December 31st.

Q. (By Mr. Rissman) 1936?

A. Yes. The foreman, Mr. Dukas, we called him, I don't know how he spells his name, he came to me and told me that Mr. Harold Falk wanted to see me. I says to him, "Again?" He says, "Yes, you had better go."

When I got there, Mr. Connell was seated with him in the office, and as I sat down, Mr. Harold Falk looked at me, he said, "Well, what do you think of your proposition now?"

I said, "Mr. Falk, what are you referring to?"

"Oh, your proposition that you made, your classification proposition."

I says, "Mr. Falk, that was not my proposition."

"Well, whose was it?"

I said, "The men's proposition, they signed it, they okayed it. I merely carried out their wishes; that's all."

Then he began to tell me something about different firms that he wrote to, about the wage, and so forth.

Q. (By Mr. Lamfrom) That he wrote, or you wrote?

A. That he wrote. I says, "Mr. Falk, I am not interested. That has been already threshed out. You have got me here for some other purpose than that."

"Then he told me that he thought the company would be best served if my connection was terminated. From the question that he put to me, there was no use for me to do any pleading.

I said, "Well, have you got my check ready?"

1168 He said, "Yes, here it is."

I rased from my seat, shook hands with both him and Mr. Connell and bade them goodbye, and that was all.

Q. (By Mr. Rissman) Mr. Kinch, if the Falk Corporation were to offer you reinstatement to your former position, would you accept it?

A. Yes.

Q. Do you know any reason why you cannot perform the duties you performed as an erection man in the plan if the company were to reinstate you?

A. None that I know of.

Q. I hand you herewith Board's Exhibit No. 30 for identification, being the minutes of the thirty-third meeting of The Falk Corporation Works Council, meeting held on April 9, 1936, and direct your attention to the quotation, being the last paragraph on page 2 thereof, and ask you if you ever had any discussion with the secretary of the Works Council regarding those minutes?

Mr. Engelhard: Will you give me the date of those minutes again?

Mr. Rissman: April 9, 1936.

The Witness: A. Yes.

Q. (By Mr. Rissman) What discussion did you have with Mr. Hydar, the secretary of the Works Council, about this?

Trial Examiner Batten: What is the paragraph? Will 1169 you read that?

Mr. Rissman: The paragraph reads as follows:

"An adjustment upward of about 5 percent in the incomes of employees"—I had better read the preceeding paragraph: "Mr. Connell announced that the company declined the proposition for such vacations."

There had been discussion about vacations.

"But offered instead the following: 'An adjustment upward of about 5 per cent in the incomes of employees. Approximately half of this adjustment would take the form of about a 2½ percent increase in the existing wage rates, this to be effective as of April 16. The balance to be paid in the form of a 3 percent bonus on each employee's gross earnings between the period March 1, 1936, and November 30, 1936. This bonus would be paid to the employees on December 23rd.'"

Mr. Engelhard: Mr. Rissman, I do not find that other date of April 9, 19396.

Mr. Rissman: I beg your pardon. It is a special meeting of April 16, 19396.

Mr. Engelhard: Just a minute. See if I can get this. I have it now. What are you referring to?

Mr. Rissman: Page 2.

Q. (By Mr. Rissman) Now, tell us about your conversation with the secretary of the Works Council regarding that paragraph.

A. I told Mr. Hydar that I had been approached by quite a few monthly salary men as to the status of their eligibility to the bonus.

Q. What had the monthly salaried men said to you about their eligibility for the bonus?

A. They were told that it was impossible, that they are not eligible to it.

Mr. Engelhard: Will you read the answer?

(Answer read.)

Q. (By Mr. Rissman.) Who told them, did they say?

A. Mr. Hydar.

Q. And what did Mr. Hydar say to you when you raised this question at the Works Council meeting?

A. I asked him to produce the minutes of April 16th, and read that particular paragraph, see what the representatives of the council told him was their interpretation, which he did.

Q. And he read you this same paragraph?

A. This same paragraph. I asked the Works Council then what was their opinion, what was their interpretation of it.

Well, they all admitted it was Falk employees.

Q. What was Mr. Hydar's interpretation, if he had one?

1171 A. He admitted that is what it meant, Falk employees, but—

Q. Did you ask him, or did he state why he told the monthly salary employees that they would not be eligible for the bonus?

A. Yes, I did.

Q. What did he say?

A. He said, "While it reads in the minutes and appears in the minutes that it includes all Falk employees, it was not understood that way."

Q. What did he say was understood?

A. It was understood at the meeting that the monthly men, or monthly salaried men, was not included in this bonus. As a matter of fact, he says—Mr. Green, I believe, said this, made this statement, "They are not represented in the Council."

Q. Was that Mr. Green's contention for the exclusion of monthly salaried men from the bonus?

A. Yes.

Q. What other conversation took place with reference to the same subject?

A. Then I asked Mr. Kirsch, who was one of the members of the Council.

Q. An employee member?

A. He was a member representing employees.

1172 Q. That is what I mean. Go ahead,

A. I asked Mr. Kirsch how long he had been on the Council. He said about three years. Then I asked him, "Who do you represent?", and he enumerated different departments, including power house.

I then asked Mr. Chairman if power house men was to be paid by the month, or by the week. He says by the month.

Q. Will you tell use, Mr. Kinch, if all employees, including monthly salaried employees, were then paid the bonus?

A. These gentlemen were complaining to me that way. I don't know. I didn't ask whether they were or not.

Q. Did yo never hear that they were excluded from the bonus after this meeting?

A. No, I didn't. Everybody came—a number of them came to me and thanked me for my trouble, to help them in getting this bonus.

Q. I hand you herewith a two-page document, marked Board's Exhibit No. 31 for identification.

Trial Examiner Batten:: You haven't offered that other one yet.

Mr. Rissman: I offer BOARD'S EXHIBIT NO. 30.

Trial Examiner Batten: If there is no objection, it will be received.

(No response.)

1173 (Thereupon, the document above referred to, marked BOARD'S EXHIBIT NO. 30, was received in evidence.)

Mr. Lamfrom: Let me see 30, please.

Mr. Rissman: Any objection to Exhibit 30, Mr. Lamfrom?

Mr. Lamfrom: No.

Q. (By Mr. Rissman) I hand you herewith Board's Exhibit 31 for identification, a two-page document entitled "An Important Message," and ask you if you can tell us what that is, and where you first saw it, or obtained it.

A. This was distributed through the shop.

Q. Speak louder.

A. This was distributed through the shop.

Q. And you received a copy of it while you were an employee?

A. Yes.

Q. Is that the one you received?

A. Yes.

Q. Or one like it?

A. No, this is the very one.

Q. Will you tell us briefly what it is, what information it contains?

Mr. Engelhard: Before you answer that, let me see it, let's see what it is.

Mr. Rissman: Sure.

1174 Mr. Lamfrom: Let me see it.

Q. (By Mr. Rissman) Will you tell us what it is, Mr. Kinch, in a general way, tell us what information it contains?

A. As far as I understand—

Mr. Lamfrom: I submit the document speaks for itself, Mr. Examiner.

Mr. Rissman: Just to identify it, so whoever goes through doesn't have to go into it in detail.

Trial Examiner Batten: You identified it, as far as the contents are concerned.

Mr. Engelhard: Can you identify it, Mr. Rissman, in the record?

Mr. Rissman: Yes.

Mr. Lamfrom: Give the heading and a few succinct descriptions of it. Don't give your views on the philosophy of it, though.

Mr. Rissman: Those are self-expressed. This is entitled "An important Message", and was passed to the employees, stating the company's opposition to two labor Disputes Bills, the Severson Bill, in the Senate, referring to the Wisconsin Senate, and the Sigman Bill in the Senate, stating also the reasons—

Mr. Lamfrom: Just a minute. The rest is there.

Mr. Rissman: (Continuing) —the reasons for the 1175 company's objections, and urging the employees to write their senators and assemblymen; and page 2 contains a list of senators in the State Legislature and a list of assemblymen in the State Legislature.

Q. (By Mr. Rissman) Will you tell us, Mr. Kinch, what the Severson bill and the Sigman bill were, if you know?

Mr. Lamfrom: Oh, Kinch is a wonderful accountant, a fine organizer, an excellent and esteemable gentleman, but he has not yet qualified to expound the law here.

The Witness: Correct.

Mr. Lamfrom: Is that right?

The Witness: Yes.

Trial Examiner Batten: I think we know what that law is about, and what it was supposed to do or not do, but I think this witness should testify where he got it, and how he got it. That has some importance.

Mr. Lamfrom: That's right.

Q. (By Mr. Rissman) Will you tell us how you got this document?

A. It was passed to every man in the shop.

Q. And it is signed by Harold S. Falk, Works Manager?

A. Yes.

Mr. Engelhard: Is the date given there?

Mr. Rissman: It is not on the document.

Q. (By Mr. Rissman) Do you recall approximately 1176 when this was passed around?

A. Oh, I would say a week or two before that bill was ready to be debated in Madison.

Q. (By Mr. Lamfrom) That would be about what month?

A. That was in—I really don't know.

Q. About March?

Mr. Rissman: No.

The Witness: A. Well, I don't know.

Q. (By Trial Examiner Batten) Where were you when you received this exhibit 31?

A. In the shop.

Q. Were you working at your machine?

A. No, at the bench.

Q. And who gave this document to you?

A. The timekeeper.

Q. What is the timekeeper's name, do you know?

A. Freddie Hahn, I believe.

Q. Was it during working hours you were handed that?

A. Yes.

Q. Was anything said to you at the time it was handed you?

A. No.

Mr. Rissman: That's all.

Cross-Examination.

Q. (By Mr. Lamfrom) The Severson bill was up for discussion in the Legislature in March or April—

Trial Examiner Batten: Are you going to offer that?

Mr. Rissman: I offer it in evidence.

Trial Examiner Batten: It will be received, there being no objection.

Mr. Lamfrom: No objection at all.

(Thereupon, the document above referred to, marked BOARD'S EXHIBIT NO. 31, was received in evidence.)

Q. (By Mr. Lamfrom) The Severson bill, as the Wisconsin legislative record which we intend introducing here will show, was up for discussion in March and February and April of 1937, is that about right? It was in the Spring of that year?

A. No. There was one before that.

Q. There was one before that?

A. Sure, 1936. Either '36, or '35, now, I don't remember. I believe it was '36.

Q. The Legislature came into session when?

A. I really don't recall it.

Q. The Legislature came into session in January, didn't it? I mean, under the laws of the State of Wisconsin? You are familiar with it?

A. A little bit.

Mr. Rissman: I think we should state for the record that the Severson bill and the Sigman bill came up twice in the Legislature of the State of Wisconsin. The first time it was not approved, and the second time it was.

Q. (By Mr. Lamfrom) Which Severson bill are you referring to? The one that passed recently?

A. No, the one in 1936.

Q. You are referring to the bill which came up in the Legislature in 1936?

A. Well, I don't exactly remember whether it was '36 or '35, but I believe it was '36. I was working there then, at this time I wasn't, otherwise I wouldn't have it.

Q. This paper was passed to you, you are sure, while you were working there?

A. Absolutely.

Q. You are positive of that?

A. Absolutely.

Q. You are not positive, of course, whether it refers to the Severson bill, which is now the law, or some other Severson bill which was proposed theretofore?

A. It wasn't told to me, but we all know that bill was up, everybody in the shop knew.

Q. When this was passed to you, did you think there was anything wrong on the part of the company?

Mr. Rissman: I object, asking for a legal conclusion.

Trial Examiner Batten: Wait until he finishes his 1179 question.

Q. (By Mr. Lamfrom) (Continuing) —On the part of the company, to ask their employees to oppose the bill?

A. Yes.

Mr. Rissman: I object to the question.

Trial Examiner Batten: Just a minute, until Mr. Rissman makes his objection.

Mr. Rissman: I object to the question. Mr. Lamfrom has pointed out to us very well that Mr. Kinch is not an authority and cannot pass judgment upon the correctness or incorrectness of the company's action in distributing this information.

Trial Examiner Batten: I think Mr. Kinch, if he feels that he is qualified, may answer the question.

Mr. Lamfrom: Sure, that's all I am asking.

Q. (By Mr. Lamfrom) I am not asking you for your legal opinion on it, but your opinion as an employee of the company, whether there was anything wrong in The Falk Corporation passing this exhibit, as it is not known Board's Exhibit 31, to the employees?

A. I didn't think it was right then, no.

Q. What was wrong about it?

A. Because I think that men should think for themselves. They have some pretty smart fellows working there.

Q. It is your opinion that an employer should never 1180 advise with his employees on matters of joint interest to themselves?

A. That is my opinion, yes.

Q. I thought so, from your testimony heretofore, but I wanted to make sure of it.

Mr. Rissman: You have it.

Q. (By Trial Examiner Batten) Do you make a distinction between those things which an employer might advise with employees about, and those things which he made statements to the employees about?

A. This particular bill in question was very important to the employer—the employee.

Q. My question is, do you make any distinction between things which the employer may advise employees about, and things which he may make definite statements to the employees about?

A. There is a distinction between it, and I take it so.

Q. What distinction?

A. One is suggestion, and one is command.

Q. (By Mr. Rissman) Was this in the nature of advice, or making a suggestion?

Mr. Lamfrom: Just a second.

Q. (By Mr. Lamfrom) Did you consider that when The Falk Corporation handed you this exhibit 31, that that was a command to you to use your influence and activities 1181 to oppose the Severson bill?

A. No, I wouldn't say it was a command, no.

Q. What was this other than an expression of the opinion of The Falk Corporation as to the merits of this bill?

Mr. Rissman: Look it over, Mr. Kinch, read it carefully.

The Witness: A. They state their position very clearly here.

Q. (By Mr. Lamfrom) Yes, their opinion.

A. Yes.

Q. And their opinion as to its effect, is that right?

A. But, in my opinion, there are men that haven't got a full understanding of this.

Q. And you think such men should not be made the recipient of the employer's opinion on those things?

A. Well, I didn't say that.

Q. Is that your thought?

A. I have my own opinion.

Q. No, I mean a man who doesn't understand it, you think should not be advised by the employer, or that the employer should not give his opinion to the employee, is that right?

A. Well, I wouldn't put it quite that strong.

Q. How would you put it, Mr. Kinch? You are pretty good at putting things. Let's have it from you.

A. I wouldn't say that, I am not as good at that, 1182 but to put this view of Mr. Falk in its proper light as respects so many men. There are 1400 men there.

Q. Yes.

A. So many different minds.

Q. Exactly.

A. And what effect it would have on me, and what effect it would have on Mr. Jones would be two different questions, what their thought was. I couldn't say for sure that it can be stated that Mr. Falk meant this, or that Mr. Falk meant that. That speaks for itself, that is for a court to decide.

Q. It is your opinion that it is for the court to decide whether there was anything improper in the distribution of this Exhibit 31 by The Falk Corporation?

A. Yes. I am not sufficiently qualified to pass judgment on that.

Q. But you didn't approve of it?

A. No.

Q. You don't approve of any communications by the employer to the employee concerning the relationship of employee-employer, do you?

A. In some cases I do, and in some cases I don't. It all depends on the employer himself, if the employer has always been with his men on the up-and-up, so to speak, and if it is not absurd. If the man was misled once, it is possible 1183 he could be misled again.

Q. Was The Falk Corporation on the up-and-up with its employees?

A. I take it there is sufficient evidence for the court to decide that. I can't state that.

Q. What is your opinion with reference to that?

Mr. Rissman: I object to asking Mr. Kinch to assume the province of the Trial Examiner and the Board.

Mr. Lamfrom: Mr. Kinch is taking a position here which I think I have a right to inquire into. He takes the position it was wrong to send this document out; that it is all right for an employer to have communication with employees in cases and matters concerning the employment relations if the employer is on the up-and-up, and I am asking him now whether his former employer, The Falk Corporation, which handed out Exhibit 31, and which is charged here with an unfair labor practice, or several of them, was on the up-and-up with its employees.

Mr. Rissman: And I submit that is the question to be de-

cided by the entire Board, whether the several acts which have been proved and will be proved here are in violation of the law, or, as Mr. Lamfrom says, on the up-and-up.

The question of whether The Falk Corporation violated the law is not concerned with the question of whether they are on the up-and-up in the general sense of the word, 1184 in the relation of themselves to their employees.

Q. (By Trial Examiner Batten.) When you made that statement, Mr. Kinch, what did you mean?

A. If men are told things time and time over again, about losing money, and this thing and that thing, naturally men don't have confidence in what is said, they just feel like—well, they don't know how to take it. It might be true, that might have been sent in good faith; but as far as myself personally was concerned, I didn't think it was the right thing to do.

Q. You mean, you didn't accept it as being sent in good faith?

A. That is exactly what I mean.

Q. (By Mr. Lamfrom.) In other words, you felt that The Falk Corporation, in distributing this Exhibit 31, was not on the up-and-up with its employees?

A. Well, I wouldn't put it that way. That question covers a whole lot of territory. I would cover it something like this: That a man not sufficiently familiar with the document, if you may call it so, may interpret that as a command, Mr. Falk said so, and that's that. Others interpreted it, I guess, as I do, that are familiar with it, that are familiar with the employer attitude towards things, towards labor.

Q. Your objection, then, in substance, to this Exhibit 31 is that it might affect some of the workers who are not 1185 familiar with such matters as a command from Mr. Falk to oppose this legislation?

A. That would have influence on some men, yes.

Q. That's about it, isn't it?

A. Well, I would put it somewhere around there, yes.

Q. You feel that an employer has no right to communicate his opinions on legislation affecting the employer and employees, to his employees?

A. I didn't say it, at all.

Q. Well, do you?

A. No.

Q. An employer has such a right?

A. Such a right, yes.

Q. And he is an up-and-up employer if he does that, isn't he?

A. Well, I wouldn't say that, either. It is on his property, and he has a right to do anything he wants on his property, it looks to me like it.

Q. I didn't mean that, and you know I didn't mean that, that he has a right to do anything on his property. What is the use of quibbling? You are a smart man, you said so yourself here.

A. No, I didn't say anything like that.

Q. I am asking you whether you would consider an employer who conveys to an employee, whether or not on 1186 the company property, on company time, or at any other time, the employer's opinion of a piece of legislation affecting employers and employees is on the up-and-up?

A. Are you referring to this?

Q. No, anything.

A. Some are on the up-and-up, some may not be. Are you referring to this situation?

Q. I am referring to the attitude that you seem to take, that an employer has no ethical right to communicate with his employees respecting a labor relation, or some legislation which is pending, which may either be one way or the other.

Mr. Rissman: I object to the question. The witness has not indicated it is unethical. He has indicated that in some instances it may be unethical, and in others it may not be, and Mr. Lamfrom is attempting to characterize the witness' testimony with something that is not there at all.

Trial Examiner Batten: I think the previous questions were with respect to this specific case.

Mr. Rissman: Yes.

Trial Examiner Batten: Now, he is asking the witness the same thing generally.

Mr. Lamfrom: To get his attitude.

Trial Examiner Batten: Ask him.

Mr. Lamfrom: Generally.

1187 Trial Examiner Batten: Not only this, but generally speaking, what your feeling is with respect to the employer sending out to his employees a statement of his opinion on a matter which affects the employees and the employer.

The Witness: May I state my reason?

Q. (By Trial Examiner Batten.) You can state anything you want to in answer to it.

Mr. Lamfrom: That is what you are here for.

The Witness: A. The reason I don't approve of it is because it clearly indicates in that document that he don't approve any organization in the plant. That is the way I looked at it, he disapproved of the Severson Act.

My opinion is that, because I knew that Falk Manufacturing, or Falk Corporation, is a member of National Metal Trades Association, and it looks to me unreasonable that one should be organized, and yet a disorganizer, and that letter indicates very clearly to me, categorically, that letter would indicate that he did not want anybody to be organized in that shop, or give them that privilege that they could become organized.

Q. (By Trial Examiner Batten.) I gather from your statements that your opinion is that you are opposed to having an employer send out such things as this, not because it would have any particular influence on you, but that there are in a large plant, oftentimes, a number of men who, 1188 when they receive a document from the employer, assume that that is the thing he wants them to do?

A. Correct.

Q. Is that what you mean?

A. That is exactly the way I thought.

Q. (By Mr. Lamfrom.) And because an employer does that, he may not be on the up-and-up, even though he is expressing his opinion, his honest opinion, with respect to a piece of legislation pending, is that right?

Mr. Rissman: I object to that question. I further object, for the reason that these opinions are not conducive to the facts here, as to whether or not the company violated this Act in the discharge of Mr. Kinch, or anything it did in reference to him.

The Board will determine whether Board's Exhibit 31 constituted such interference with the rights of employees as to be objectionable, and whether Mr. Kinch thinks it is proper or improper is not going to make very much difference with the Board.

Mr. Lamfrom: No, but as a method of influencing—

Mr. Rissman: He has not been called as an expert.

Mr. Lamfrom: Oh, this is a speech. I forgot that. Go ahead. I thought it was merely an objection. Go ahead. Are you through now?

Trial Examiner Batten: Read the question.

1189 (Question read by the reporter.)

Q. (By Trial Examiner Batten.) You may answer

that question. I think we have pursued this thing to about its finish, but you may answer that question. Do you understand the question?

A. Yes.

Q. You may answer it.

A. I think this document, if I may explain it my way—

Q. (By Mr. Lamfrom.) Sure.

A. I think that a man don't necessarily need to be accused of being not on the up-and-up just because of one mistake. A man may be on the up-and-up on one thing, but not on another, whether intentionally or not.

Q. When you took the petition to The Falk Corporation through the Works Council, you thought it was all right, didn't you?

A. In what way?

Q. It was all right for the employees to petition the employer for a change in their wages or working conditions and classification?

A. Yes.

Mr. Rissman: Are you referring to the proposal?

Mr. Lamfrom: Yes.

Q. (By Mr. Lamfrom.) Is it not all right for an employer to, in a sense, petition his employees with respect to some legislation that is pending?

Mr. Rissman: I object to the question as improper and immaterial, as to what he thinks is right for an employer to do.

Trial Examiner Batten: Read the question.

(Question read.)

Trial Examiner Batten: You mean any legislation—any employer?

Mr. Lamfrom: I will perhaps make it more specific: The legislation which is commented upon in Exhibit 31.

Mr. Rissman: I still object to the question. He has answered that four or five times already.

Trial Examiner Batten: He may answer. Let's get an answer.

Mr. Lamfrom: Then we are through with it.

Q. (By Trial Examiner Batten.) Do you recall the question?

A. No.

Trial Examiner Batten: Will you read the question?

(Question read.)

Q. (By Mr. Lamfrom.) (Continuing) Referring, for example, to Exhibit 31 here.

A. Well, what do you mean, Exhibit 31?

Q. The question is, do you think it is proper for an employer to petition the employees or send out a notice like this with respect to legislation which is pending?

1191 A. He might have sent anything like this. Under the circumstances, I don't think so, no, I don't.

Q. Would you have found any fault if the employees had petitioned the Falk Company to support the Severson bill?

Mr. Rissman: I object to the question. It did not happen. He is assuming something which probably never would happen.

Mr. Lamfrom: I am just getting at the attitude of this witness.

Trial Examiner Batten: He may answer the question.

Mr. Lamfrom: He has told us what he is. I am not quite sure what he is.

Q. (By Trial Examiner Batten.) The question is, would you have any objection if the employees were to petition the Falk Company to support this bill, do you see anything wrong with that?

A. Why, no, I don't see any wrong. A man would do just like I did, a man who doesn't approve of it, just like I would.

Q. (By Mr. Lamfrom.) I don't think you quite get that. In your opinion, would there have been anything wrong if the employees of The Falk Corporation had petitioned The Falk Corporation to support the Severson bill?

Mr. Rissman: I object to the question, unless it is shown that Mr. Kinch has an opinion on something of that
1192 nature. The relationship is entirely different, it is the reverse position. The employer is never known, in an unorganized plant, to feel that anything expressed by the employees is in the nature of a comment, and, as Mr. Kinch has said, the employees will feel the statement of the employer is in the nature of a demand.

Q. (By Trial Examiner Batten.) Do you understand the question?

A. I understand the question; but there is such a vast difference between the intelligence of the two groups that really I don't know how to answer.

Trial Examiner Batten: Well, if you can't answer.

Mr. Lamfrom: That's all there is to it.

Q. (By Mr. Lamfrom.) And you base it on the intelligence of the groups?

A. Yes. One is unintelligent and influenced.

Q. You weren't influenced by the talk?

A. I wasn't, no.

Q. How old a man are you, Mr. Kinch?

A. Fifty-two.

Q. Married?

A. No.

Q. You live in Florida now, don't you?

A. I lived in Florida since.

Q. Do you have a home down there?

1193 A. No.

Mr. Engelhard: I didn't get that last part of the answer. I didn't get the answer as to how long he has been living in Florida.

Mr. Rissman: That question was not asked.

Mr. Engelhard: I couldn't get what was said.

Q. (By Mr. Lamfrom.) What are you doing in Florida?

Mr. Rissman: I object to that question; entirely immaterial.

Trial Examiner Batten: I think it is quite material here whether this man was gainfully employed from the time he was discharged down to today, because the law specifically states that anything this man has earned between December 31, 1936, and today, is deductible from any amounts which the employer might, under the law, have to pay.

Mr. Rissman: I have no objection to Mr. Lamfrom asking Mr. Kinch if he is employed, and where he has been employed.

Mr. Engelhard: He may have been employing himself.

Q. (By Mr. Lamfrom.) What are you doing in Florida?

A. Fishing and gardening.

Q. For yourself? Fishing, of course, I understand you are not a professional fisherman, but I mean the garden, what are you doing about the garden?

A. I stop there with a friend of mine, and he has plenty of ground there, and he raises a few beans, a few potatoes, a few tomatoes, and quite a few fish that I know you would like to have on the line.

1194 Q. Are you working for pay for anybody?

A. No, sir.

Q. Just living with this friend?

A. With the friend.

Q. Paying no board?

A. No, sir,—well, I pay some. I pay my own, my own way.

Q. But you are not earning any money?

A. No.

Q. And haven't been?

A. I am not earning any money since I left the corporation.

Q. You came up here in response to a letter from the National Labor Relations Board to testify in this case?

A. No, I didn't. I was here when the letter was sent to me.

Q. You knew about the time this hearing was coming on?

A. I didn't know it through the Labor Board, no, I knew it through the press, clippings were sent to me.

Q. Have you returned permanently to this part of the country now?

A. Well, if the case is in my favor, it will be permanently. If not, I will look for a job.

Q. You never asked The Falk Corporation, to reinstate you, did you?

A. I hardly could, after what Mr. Falk told me.

Q. After your discharge, you never spoke to Mr. Falk or anybody connected with The Falk Corporation with reference to any reinstatement?

A. To the Board.

Q. When you left Mr. Falk, he gave you the check, you took it, you said, "everything is all right," didn't you?

A. Yes, sir.

Q. No hard feelings?

A. No hard feelings.

Q. I don't know, of course, I can't read your mind.

You spoke of having investigated some other income tax returns besides the returns of The Falk Corporation. Whose were they, or theirs?

A. Some officials of the company. Do you want me to enumerate them?

Q. Sure.

A. Mr. Herman Falk, Mr. Harold Falk, Mr. Connell, Mr. Green, Mr. Simonson.

Q. (By Mr. Rissman.) Who is the last person?

A. Simonson.

Mr. Lamfrom: Yes.

Q. (By Mr. Lamfrom.) We know that Herman Falk is president, and Harold Falk is vice-president, and Mr. Connell is a vice-president.

A. And comptroller.

Q. And who are the others?

A. Simonson is an official of the foundry, I believe.

Q. At the time that you talked over the proposed classifications with Mr. Herman Falk and Mr. Harold Falk, you told him that you had looked into the income tax returns of the company, I believe?

A. No, I told him that—I don't know exactly what terms, but what I did mean was, I had the same facilities at my disposition as anybody, because I knew you could examine those things.

Q. That was a privilege that you had.

A. Privilege, yes.

Q. And you availed yourself of that?

A. I availed myself of it.

Q. For the purpose of getting information which would reflect upon the earnings of the company?

A. No.

Q. Well, what did you get the income for?

A. I got those figures for the purpose to get this proposition that I was working on, to see for myself if production could be increased, and earnings could be increased; because, after all, money has to be earned before the men could earn more money.

1197 Q. Yes.

A. And I know, through my seven years there, that many things could be improved and production could be increased if a certain system and certain things were done, and if they were losing money, there wasn't a bit of use to take up a lot of time at the machine to ask for a raise and ask for this and ask for that.

Mr. Falk has been broadcasting ever since I had been there about losing money, so I thought I would see for myself.

Q. Were there any years for which the income tax returns you looked into showed they had lost money for such years?

A. Yes, there were a few years they didn't make any.

Q. You are pretty thoroughly familiar with it at that time. What were the years they lost money?

A. I don't recollect. I was more interested, to tell you the truth, what they were doing at that particular time, more than I was in anything else, because that was the time I was making my proposal.

Q. You were interested in the earnings at or about the time you were making your proposal?

A. Yes.

Q. What did you find with respect to those earnings?

A. Just the year before, you know. I found that they made pretty good money in 1935.

Q. Did Harold Falk ever make a statement to you in 1938 that they lost money in 1935?

A. Mr. Herman said that they have not made any money since 1929.

Q. I am now asking you about Harold Falk; did he ever make any such statement to you?

A. He made a statement when he first called me in the office that they lost \$18,000.00 last month.

Q. When he said they lost \$18,000.00 last month, he didn't make any statement that the company lost money in 1935, did he?

A. Well, I couldn't help that. I didn't ask him, I know that.

Q. But I mean, you say they were going around and creating the impression that the company was losing money?

A. I said Mr. Herman Falk.

Q. Did Mr. Herman Falk get around the plant, so that he could talk to the men, and give that impression?

A. That is what I always did hear around the shop.

Q. What did you hear around the shop?

A. That he is losing money, and I asked the fellow, "How do you know?" He said, "He has been talking that all his life, ever since I have known him."

Q. Who said that?

A. One of the fellows.

Q. And you made no inquiry from anybody else whether those statements were brought to you, did you?

A. That was a common thing, that was a general thing. I didn't really take notice who said it, it was just general gossip around the shop, as you see it, hear it.

Q. Harold Falk never gave you any reason to believe that the company was losing money, outside of that one statement that they lost \$18,000.00 the previous month?

A. Yes.

Q. That's all he ever said, wasn't it?

A. That's all he said; but Mr. Pritzloff at different meetings mentioned losing all this money, and everything.

Q. Who mentioned it?

A. Mr. Pritzloff.

Q. Who is he?

A. He is superintendent of the foundry.

Q. He stated that the company was losing money all the time?

A. Yes, an average of \$25,000.00 a month in the foundry.

Q. Anybody who was interested in whether The Falk Corporation was making any money or not could have ascertained something about it by doing the same thing you did, could have consulted the income tax reports, is that right?

A. Well, that is the best way.

Q. So the question whether they were making any money or not was largely a matter of tax records?

1200 A. Yes, what that was; but, of course, I wanted to secure it for myself, because when you are submitting any proposition, you can't submit it unless you know something about it.

Q. When did you first get the idea of these classifications in your mind?

A. About a week after I was elected to the Council.

Q. Had you considered them before you were elected to the Council?

A. It was from my experience of seven years that led me to think about it.

Q. You had some thoughts about it when you were elected to the Council?

A. Of course, I see so many improvements that could be made, and I see so much improvement that could be made in the relation between the men and the management. After all, they were engaged in a common cause, and the better their relation, the better the chances are to make profit, and to make money for the company and for them.

Q. You had been giving that subject some thought?

A. Of course I had.

Q. Before you were elected to the Council?

A. Sure I had.

Q. Well, when you were elected to the Council, you began to shape your ideas into a concrete proposition?

A. Yes.

1201 Q. And you did that in writing form, did you?

A. No. I made several copies of what I thought was correct, to get this fellow's views, and that fellow's views; after all, they are the ones that have to live up to it.

Q. When did you first take up your proposition which you had committed to writing with any other of the employees?

A. Oh, I believe it was a few days after Mr. Falk's talk. Of course, I had made inquiry about different things from the men here and there, that is when I first put it up to any employee about what I had in mind, was after Mr. Falk spoke to me.

Q. Did you, during working hours, prior to your speaking to Mr. Falk, go around and talk to the various employees about wages, hours, and other matters of classification?

A. Never.

Q. You never left your work at all?

A. Never; unless somebody came to me and made a complaint, after I was on the Council.

Q. Yes, that is what I am talking about.

A. And made a complaint. A man would come to me and says, "So-and-so and so-and-so." Well, I didn't take his word. I trust everybody in the shop, but I investigate things first before I give my decision, because if I thought a matter was to be brought up before the Council, I did so, if not, I would go back to the man and tell him.

1202 Q. Before you saw Mr. Falk, then, you had not circulated any papers or petitions among any of the men?

A. No.

Q. Do you know how Mr. Falk got to learn of the fact that you were preparing a classification? Did he say to you?

A. I told him that I had been working on one.

Q. That was the occasion for his calling you in the first time, wasn't it, that he heard you had some classification?

A. No.

Q. What was the occasion?

A. He called me—let's see. I don't know exactly what date that was when Mr. Falk first called me in. That was in October, I believe, the 10th, something like that, I don't know exactly what date, but it was the following day when Mr. Herman Falk and Harold Falk was in the office together that I made my proposition then.

Q. But you testified; I believe, that Mr. Green, or somebody, came to you and said Mr. Harold Falk wanted to see you?

A. Yes.

Q. That was the first time?

A. Yes.

Q. And you went to see him?

A. Yes.

Q. At that time, did you have the written proposal ready?

A. Yes. That was already in the hands of several representatives.

1203 Q. Of the Council?

A. Yes.

Q. Did you give it any wider circulation than members of the Council?

A. No.

Q. And Mr. Falk either had a copy of it, or had seen it?

A. How he got it I don't know.

Mr. Rissman: Are you referring to the first meeting with Mr. Falk?

Mr. Lamfrom: The first meeting, yes.

Mr. Rissman: I think that ought to be made clear in the witness' mind. Mr. Green didn't call him to attend that meeting.

Mr. Lamfrom: Who called him? Let's hear that.

Q. (By Mr. Lamfrom) Who called you to Mr. Falk's office the first time?

A. The first time was Mr. Henderson.

Q. Hendyson?

A. Henderson?

Q. Who is he out there?

A. He is superintendent of the erecting shop.

Q. Where you were working?

A. Yes.

Q. When you went to see Mr. Falk at that time, did you have with you a copy of that proposal?

A. No, I only had it in my mind; I just thought of it in a general way.

Q. But you had already written it out?

A. No.

Q. Oh, it wasn't written out at all?

A. No, I just had an idea.

Q. I thought you had already given some copies of that to the members of the Works Council?

A. That was following.

Q. Following/what?

A. Following this conversation I had.

Q. How long after that?

A. I don't know exactly. I have the record.

Q. Look it up. You have got an extensive memorandum there?

A. Yes.

Q. Look up the date on which you first gave that petition to the members of the Works Council. Go ahead, look it up.

Mr. Rissman: I will give him his memorandum.

Mr. Lamfrom: Oh, you have his memorandum there? It was in good hands in the meantime, I am sure.

Trial Examiner Batten: We will adjourn until 2:00 o'clock. He probably can locate it by that time.

(Thereupon, a recess was taken until 2:00 o'clock p. m.)

1205 After recess.

(Whereupon, the hearing was resumed, pursuant to recess, at 2:00 o'clock p. m.)

Trial Examiner Batten: Is Mr. Goldberg here?

(Discussion outside the record.)

Trial Examiner Batten: We have Mr. Goldberg's permission to proceed if he is not here.

ANTON KINCH, a witness called by and on behalf of the National Labor Relations Board, having been previously duly sworn, was examined and testified further as follows:

Cross-Examination (Continued).

Mr. Lamfrom: What is the last question and answer?

(Record read by the reporter.)

The Witness: Do you mean Works Council representative of the Workers, or represented at the meeting?

Q. (By Mr. Lamfrom) The first date that you distributed that petition to the members of the Works Council.

A. At noon, October 26th.

Q. Who are some of the members of the Works Council to whom you distributed it?

A. I think Mr. Kirsch was one, and Mr. John Wolf was another, and I believe Mr. Adamski.

Q. Any others?

1206 A. All of them wasn't present.

Q. What?

A. All of them wasn't present.

Q. What do you mean, present?

A. At noon. This was sort of an impromptu meeting.

Q. Oh, you had a little gathering?

A. Yes.

Q. You call it a gathering?

A. Yes.

Q. All of them were not present?

A. No.

Q. But Adamski, Kirsch, and this other gentleman?

A. Mr. John Wolf.

Q. They were present?

A. Yes, I think they were the only three. I am not sure who else was there.

Q. You had a talk with them?

A. Yes, and—

Q. Well, you said "yes". That's all I am asking. And what was the talk?

A. I explained what the proposition was, and to take it and explain it to the men at noontime and get their opinion on it.

Q. Explain it to what men?

A. The men that they were representing in the organization.

1207 Q. Did Adamski and Kirsch and Wolf represent different divisions of the men—

A. Yes.

Q. (Continuing) —in the plant?

A. Yes.

Q. That was October 10th?

A. October 26th.

Q. The 26th, excuse me. When was the date that you were asked to come in and see Mr. Falk?

A. On the same day.

Q. The same day?

A. With reference to this matter, yes.

Q. That was the second time that you had been called in to see Mr. Falk within a comparatively short period?

A. Yes.

Q. And was Mr. Connell present at this meeting that you had with Mr. Falk?

A. No.

Q. Just you and Mr. Falk?

A. When I got in the office, there was somebody there with him, I just can't recall. I believe it was a stenographer, he was dictating some mail, but she went out when I came in.

Q. She went out, and was not present at the time you had the conversation with Mr. Falk?

1208 A. Yes, that's right.

Q. How long after that conversation was the plan submitted to the Works Council?

A. At the following meeting.

Q. And that was when?

A. The second Thursday in November, but I don't know exactly what date, I don't remember that at this time.

Q. Well, about?

A. Well, I would say it was around the 13th, somewhere around there. I don't know exactly. It must be in the copy of the minutes.

Mr. Lamfrom: Where is that copy of the minutes of that Works Council meeting here?

Trial Examiner Batten: Has a copy of the November minutes ever been introduced?

Mr. Rissman: I don't believe so.

Trial Examiner Batten: I don't believe those have been introduced, Mr. Lamfrom.

Mr. Lamfrom: There were some minutes produced, on which occasion.

Trial Examiner Batten: That was the December meeting, the proposal and the reply.

Mr. Lamfrom: Yes.

Trial Examiner Batten: That was Exhibit 24, I believe.

Mr. Lamfrom: Exhibit 24. Well, then let that go 1209 for the time being.

Q. (By Mr. Lamfrom) The number of conversations that you had with Mr. Falk, Harold Falk, up to and including the time that you were discharged, were three?

A. Yes.

Q. Was it Mr. Falk, your first meeting with him, that suggested you reduce the plan you had discussed with him, reduce it to writing?

A. He did.

Q. He suggested that?

A. After I explained it.

Q. Just answer "yes" or "no" if you can. He suggested that?

A. Yes.

Q. Up to that time, you had not put it in writing?

A. I had not.

Q. In any respect whatsoever?

A. No.

Q. You had the information, but had not gotten around to do it?

A. I had memorandums, what I wanted in it, and what I thought ought to be done, but I never had it reduced to writing.

Q. Do you remember that at that meeting with Mr. Falk at which time he suggested you put the matter in writing, that he said, among other things, if there was anything in the plan worth while, or something to that effect, that he would be glad to discuss it with you? 1210

A. Well, I don't recall him using those words. He always was ready—He did say he was ready to listen to any complaint.

Q. Mr. Falk testified on his examination here that at that meeting, he said to you, Suppose you reduce your plan to writing, and when you have got it in that shape, let's you and I sit down and discuss it. If you have got anything in the plan that is worth talking about, or taking out of it, we can get some benefit out of it and the men can get some benefit out of it, I will be glad to discuss it with you. Did he say that?

A. I didn't understand it that way; but even if he did, I didn't promise I was.

Q. I am not asking you whether you promised. I am asking you whether he said that, or words to that effect.

A. Substantially, yes.

Q. Did you know when you left Mr. Falk's office that day that Mr. Falk expected that you would come back after you had put this matter down in writing, and discuss it with him?

Mr. Rissman: I object. This witness can't know what Mr. Falk expected. He may relate the conversation, or anything that was said.

1211 Trial Examiner Batten: I will sustain the objection. He may repeat what was said there, or whether he felt that there was any appointment, definite or indefinite, made to return.

Q. (By Mr. Lamfrom) Have you any recollection that Mr. Falk said that when you had that plan in writing, that he would discuss it with you?

A. Yes.

Mr. Rissman: I object to that. Let him state the conversation.

Trial Examiner Batten: He has answered the question.

Mr. Lamfrom: He has answered it, yes.

Q. (By Mr. Lamfrom) What did you understand he meant, that when you had the plan set out in writing, that he would discuss it with you?

A. I don't care what he meant. I know.

Q. I know you don't care about that, you have made that so plain heretofore.

Q. (By Trial Examiner Batten) The question is, what did you understand him to mean?

A. I understood him to mean that it was at my discretion whether I wanted to come, he would like to have me come to submit the proposition to him; that is the way I understood it.

Q. (By Mr. Lamfrom.) And you didn't want to do 1212 that, did you?

Mr. Rissman: I object to that question.

Mr. Lamfrom: I don't see anything objectionable to that question.

Trial Examiner Batten: I think the witness is qualified to answer that, whether he wanted to or not. I don't know as the question is quite properly worded, but he may answer. I think he is intelligent enough.

The Witness: Can I answer that question in my own way?

Trial Examiner Batten: Yes.

Q. (By Mr. Lamfrom.) That is what you are here for.

A. In face of the fact that there were seven or eight workers representatives, it certainly would look inconsistent to see Mr. Falk separate on any matter that pertained to the business of the Work representatives, that would be kind of a reflection on me.

Aside from that, the workers that I represent would think "that fellow is over there making a deal with them," well, you just about could guess what they would say when I went down there alone to see Mr. Falk.

Q. So that, when you left Mr. Falk's office, you had no intention of discussing the matter with him further, after you put it down in writing, had you?

A. Yes, I did.

Mr. Rissman: Just a minute, I object.

1213 The Witness: A. After I seen the men.

Q. (By Mr. Lamfrom.) After you had seen the men?

A. Yes, after I submitted it to them for approval, yes.

Q. You did submit it to the men, didn't you?

A. Yes.

Q. And you did talk to them about it?

A. Yes.

Q. Did you come back to Mr. Falk after that, for the discussion which he asked for?

A. They called for me.

Q. I mean, before the matter was submitted to the Works Council?

A. Of course, I took the proposition to him.

Q. To Mr. Falk?

A. Certainly. On my way home, I left it there.

Q. When was that?

A. The same day that he called me in, on the 26th.

Q. Mr. Falk testified that he saw you twice; that he saw

you at the time you came in to talk with him with reference to your ideas, and at the time he asked you to put it in writing, and then again December 31st, when you were discharged.

You have testified here as to another meeting. Are you positive that you talked this matter over twice with Mr. Falk before your discharge?

1214. A. Let's get this correct.

Q. Yes, go ahead, that's all we are after, is to get it correct.

A. Let me get your question right.

Q. Do you want it repeated?

A. Yes.

Mr. Lamfrom: Will you read the question?

(Question read as follows:

"Q. Mr. Falk testified that he saw you twice; that he saw you at the time you came in to talk with him with reference to your ideas, and at the time he asked you to put it in writing, and then again December 31st, when you were discharged. You have testified here as to another meeting.")

The Witness: A. That is correct.

(Record read further as follows:

"Are you positive that you talked this matter over twice with Mr. Falk before your discharge?")

The Witness: A. The first time I talked with him, and the second time I took the papers there, the same day. I told him if I wasn't there, I was going to leave the papers in his office for him to look it over.

Q. (By Mr. Lamfrom.) Well, now, Mr. Kinch, the first time you saw him, you didn't have any papers, did you?

A. The first time I saw Mr. Falk?

1215. Q. Yes.

A. No.

Q. And then the same day you took the papers in to him?

A. First, I mean, when he sent for me before the proposition was even put into writing.

Q. Yes.

A. That is the first time.

Q. That is the first time. Now, what was the second time?

A. The second time was when the proposition was submitted to the men for their approval, right after, that same day, on the 26th.

Q. The same day that the proposal was submitted to the Works Council?

A. No, to the workers' representatives, when I passed it to them, for them to pass it over to the men.

Q. Let me get this as clearly as I can. What was the first time that you saw Mr. Falk, the approximate date?

A. The first time when I see Mr. Falk was on October 25th,—I mean the 5th.

Q. The 25th?

A. No, the 5th.

Q. And the second time you saw him was?

A. On October 6th.

Q. (By Mr. Rissman.) 26th?

A. No, October 6th. That was the following day.

1216 Q. (By Mr. Lamfrom.) Yes. And then you brought in the proposal in writing?

Mr. Rissman: He has not said so.

Mr. Lamfrom: Now, will you kindly stop it?

Mr. Rissman: Well, you are testifying.

Trial Examiner Batten: Just a minute. This witness is perfectly intelligent.

Mr. Rissman: That's right.

Trial Examiner Batten: If he is left alone, he will straighten it out himself.

Mr. Lamfrom: Sure.

Mr. Rissman: If he is left alone, yes.

Trial Examiner Batten: All right. Then let's leave him alone, and let the witness figure out these meetings and dates. He knows where he met, and when, and who. Let him proceed to figure it out for himself.

Q. (By Trial Examiner Batten.) Now, Mr. Kinch, without any further interruptions from anybody, just relate to us, in a few words, the various meetings you had with Mr. Falk, and the approximate date of those meetings.

Mr. Lamfrom: Respecting—well, you said he shouldn't be interrupted.

The Witness: A. The first meeting was on October 5th.

Q. (By Trial Examiner Batten.) How did you happen to go in on October 5th?

1217 A. Henderson came to me and told me that Mr. Falk wanted to see me.

Q. Who was present at that meeting?

A. Just Mr. Falk himself; and at the time I came there, with him was a bookkeeper, I forget his name.

Q. When was the next time you saw Mr. Falk?

A. The following day.

Q. How did you happen to go in that day?

A. The date was made the day before.

Q. And when you were in conference with Mr. Falk, who was present at that conference?

A. Mr. Herman Falk.

Q. When was the next time that you saw Mr. Falk?

A. On October 26th.

Q. And how did you happen to go in that time?

A. Mr. Green came to see me, I think it was about 1:30, that was the day when I distributed the copies.

Q. When was the next time you saw Mr. Falk?

A. I didn't see him that evening, but I left--

Q. I mean, when was the next time you saw him?

A. When I was discharged.

Q. How did you happen to go in that time?

A. He sent for me.

Q. Who notified you to go in?

A. One of the foremen in the shop.

1218 Q. Who was present at that conversation?

A. Mr. Connell.

Q. And Mr. Falk?

A. Yes.

Q. And yourself?

A. Yes.

Trial Examiner Batten: I don't think there is any question in the witness' mind.

Mr. Famfrom: No, I think he is getting it perfectly clear.

Mr. Rissman: Except what Mr. Lamfrom said.

Trial Examiner Batten: I think this witness is perfectly competent to match wits with Mr. Lamfrom.

Mr. Rissman: We are not here to match wits, Mr. Examiner; we are here to get the facts.

Trial Examiner Batten: I know; but the witness, I think, will take care of himself.

Q. (By Mr. Lamfrom.) I just want to get this situation cleared up. You saw Mr. Falk the first time October 5th, and the second time October 6th?

A. Yes.

Q. And the first time, on October 5th, you didn't have the thoughts of your plan committed to writing, did you?

A. On October 5th, the proposition was not discussed at all.

1219 Q. What was discussed between you and Mr. Falk on October 5th?

A. That was the time he told me they were losing \$18,000 a month, or rather, that they lost \$18,000 last month.

Q. In other words, you were called in to Mr. Falk's office by—who was it?

A. By Mr. Henderson.

Q. By Mr. Henderson?

A. Yes.

Q. And Mr. Falk said, in effect, "Good morning," or "Good afternoon, Mr. Kinch. The Falk Corporation lost \$18,000 last month."

A. No. But that was the substance of it, that was the reason, I guess, among other things, that he talked to me about that "I understood"—or "I was told", rather, "that you had some knowledge of the business, and so forth, and I sent for you. I want to show you something about what is doing."

And I said to Mr. Falk that I was working in the machine shop, I don't think—what do I care about what they was doing in the office.

Q. You were not interested in that?

A. No. My business is in the shop.

Q. Yes.

A. But he says, "You know, you are on the Council, 1220 and it is no more than right that you know our end of it, too."

I said, "That is true, that's all right. I don't mind that."

Q. To get the conversation a little better, you went in there on October 5th, and you had a conversation with Mr. Falk?

A. Yes.

Q. Who started the conversation?

A. He did.

Q. What did he say, in substance? I don't expect you to repeat his exact words.

A. When I came in there, there was a vacant chair right alongside of him, and Mr.—I forget the name of the bookkeeper.

Q. We don't care about the bookkeeper.

A. We have gone all over this.

Q. I just said, what were Mr. Falk's words, what did he say? I didn't say anything about a chair.

A. He said, "Mr. Kinch, I sent for you for the purpose to acquaint you with some of our business. Won't you sit down?" Which I did.

Q. Yes.

A. The bookkeeper left; and he had what seemed to me at

the time a monthly balance sheet, and he begin to point out different things on it, and I didn't look at it, because
1221 I am not familiar with the office.

Q. That we know. Just stick to the conversation.

A. I said, "Mr. Falk, I work in the shop."

"Well," he said, "you are on the Council, aren't you?"

I said, "Yes."

He said, "Don't you think you ought to know our end, too?"

"Why, sure, that's all right; there is nothing wrong with that."

So he began to tell me about the losses that he sustained last month, and so forth.

Q. And nothing was mentioned about any plan that you had in mind?

A. No, not then.

Q. But at that time, you did have a plan in mind?

A. Yes, roughly, yes.

Q. And that was October 5th?

A. Yes.

Q. And the plan which you had in mind roughly on October 5th, you had in writing on October 6th?

A. No. I didn't mention the plan then on October 5th.

Q. I didn't say anything about mentioning it. On October 5th, you had roughly in your mind a plan?

A. Yes.

Q. Or a classification?

1222 A. Yes.

Q. And on October 6th, you had that plan in writing, and distributed it to some of the members of the Works Council?

A. I didn't say so.

Q. Well, what did you say?

A. I didn't have a plan then. I came there on October 6th. To continue the story, Mr. Falk, it seemed like he had an appointment with somebody in town for lunch or something, or maybe he got nervous at what I said, I don't know, but he said, "By Jove, I have got an appointment downtown for lunch."

Q. Yes, we heard all about that.

A. Okay.

Q. What I am asking you is, when did you first commit your plan to writing?

A. After we had a conference on October 6th.

Q. Oh, on October 6th?

A. Yes.

Q. So then it was on October 6th that you and Mr. Falk first had a discussion of your plan?

A. Yes.

Q. Did you tell him you had a plan, or did he say, "I hear, Mr. Kinch, you have got some kind of a plan for the men." How did that come?

A. No. That came about when he asked me about 1223 the finance corporation—corporation finance, and so forth, and I gave the reason why I was getting that information, why I wrote letters to different corporations that are in competitive business, I want to get their plan.

Q. Let's get ourselves transferred a little back here in the history of this matter. It is now October 6th, you and Mr. Falk were in Mr. Falk's office?

A. Yes.

Q. In the evening, I think that was as you were going home?

A. Yes.

Q. Tell us what you said and what Mr. Falk said, to the best of your recollection. That's all I want to know.

A. As I entered the office, Mr. Herman Falk was there sitting opposite him, and they were discussing something about taxes.

Mr. Herman Falk seemed like he was in a bad humor.

Q. Well, I am not asking you for anything but the conversation, what you said.

A. Well, I am telling you.

Q. But you are talking about bad humor, now.

Q. (By Trial Examiner. Batten.) Tell us just what was said there.

A. So as I came in, they were both engaged, Mr. Harold Falk was looking at a paper, they were engaged in some 1224 conversation. Naturally, I had to stop and pause a while. He looked and he said, "Do you want to see me?" I said, "No, I thought you wanted to see me."

"Oh, yes. That's right," he said, "sit down."

So I seated myself, and then Mr. Herman Falk—I never met Mr. Herman Falk. I had seen him.

Q. (By Mr. Lamfrom.) Oh, sure; but stick to the conversation.

A. And he began to tell about the losses, that is the first thing he started.

Q. Now, let me interrupt you there. Did Mr. Herman Falk, in effect or substance, begin to tell you about the losses The Falk Corporation had?

A. Yes, he used terms something like this:

Q. You had never met Herman Falk before, had you?

Trial Examiner Batten: Just a minute, Mr. Lamfrom, he was just going to start to tell you what Herman Falk said. Proceed.

The Witness: After the discussion ended about the taxes, he said, "Those dog-gone fellows in the shop think we are making all kinds of money, and we have to pay taxes, and things like that," and I just kept still until they got through.

When they got through, Mr. Harold Falk said to me again, he said, "What was that we were talking about yesterday 1225 day?"

"Why," I said, "I don't know. You tried to convince me that you were losing some money."

"Oh, yes, that's right."

Then he proceeded to tell me, and Mr. Herman—they both were talking at the same time, Mr. Herman joined in on this and that. I didn't even listen, to tell you the truth, because I know it was—well, anyway,—

Q. (By Mr. Lamfrom.) Wait a minute. You know it was what?

A. Well, that was their idea. I had my own ideas about it.

Q. But you were going to say something there, then you stopped. You know it was what?

A. I know it was a stage act, if you want to know the truth.

Q. All right. That's all I wanted to get from you on that.

A. When he got through, they continued on and continued on about the losses, until I got finally to the point that my ears began to burn, and I told Mr. Herman Falk that I didn't believe such losses were sustained by the corporation, from all the information that I had, and I thought I had a pretty good report on the corporation finance; to show that the corporation is in very good shape; I didn't see nothing to worry about.

1226 Q. You said that to Herman Falk?

A. Well, they both was together, I was addressing both.

Q. I see. Go ahead.

A. I didn't see why I was concerned about it, why they was telling me all that stuff.

Q. That was part of the stage act?

A. Well, I would say yes, it was a stage act.

Q. All right. Go ahead.

A. I didn't have no money to make up the deficiency, I told him I didn't see anything to it.

Q. They asked you, of course, to make up their deficiency?

A. No, they didn't.

Q. Well, go ahead. Anyway, you were there, they told you about their losses, and you didn't make up their losses. Go ahead.

A. Then I finally told them I came there to deal with this and that, if he is willing to deal with facts, and if not, the conference is ended right now, and I raised from the chair and was ready to go, and Mr. Herman Falk said, "Sit down. We want to do what is right. Just sit down."

I don't know the exact words he used, he is kind of an excitable old fellow, old gentleman.

Q. And you are always perfectly calm and cool?

A. No, I am not, I get excited sometimes. But I seated myself again, and then he began to kind of calm down a little bit, and I asked him, I said, "You made a statement that you are not making any money. Just what do you mean by that, that you are not making any money?"

"Well," he said, "I mean we are not making any money, and haven't made any money—well, we made a little money in '29."

I said, "What do you call 'a little money?'"

"Well, we haven't made much."

"Well," I said, "on the investment you have in the plant, I think you made pretty good."

He said, "What do you think we made?"

I said, "You made pretty good."

"Well, what do you think we made?", again.

I said, "Well, if my recollection is right, I think you made a little over \$900,000.00. Am I right?"

Q. Who did that? Who scratched his head, you or Herman?

A. He scratched his head.

Q. Or did he scratch your head, or did you scratch his?

A. He said, "Yes, I think it is somewhere around there, I don't know exactly. But we never made anything before,

and we never made anything after," and he made me feel like I was accepting charity, and I told him so.

Q. You testified to that, of course, that your feeling was that you were accepting charity, this morning, so now we have got that twice.

1228 A. You have. Okay.

Q. Yes.

A. Then something came up, I don't know how it was brought up, I believe I brought it up myself, I said, "The reason I went to all this trouble was, I want to get things right. I am working on the proposition, and I want to see what your competitors are doing."

Q. Excuse me just a minute. You said you were working on the proposition?

A. Yes; that I was presenting to the Council, that I was figuring to present to the Council.

Q. Is that the first time that question ever came up?

A. Yes.

Q. Let's have the exact words that you used when you mentioned that.

Mr. Rissman: He is giving them to you.

The Witness: Well, I think that is just about the words I used, that I was working on the proposition, which I expected to present to the Council in the very near future for their consideration, and Mr. Herman Falk said, "What is the proposition?" And I told him it was a classification plan.

Q. (By Mr. Lamfrom.) Yes.

A. By which many of the evils that was in the shop could be removed, and help to establish better relations between the workers and the management.

1229 "Well," he says, "tell me roughly what is in your mind."

"Well, I thought that the men should be classified, and it made known to each other what their hourly rate is, so why hide anything if it is all right."

I said not to hide anything about it, everybody wants to know what the other fellow gets.

"Put on your card what the hourly rate is."

He says he didn't think that would work. He said, "You know, men are very jealous of their hourly rate."

Q. Who said that, Herman or Harold?

A. Herman.

I said, "That is just where you are wrong, Mr. Falk."

I said, "The men are not jealous. I had men come to me

in the shop, that are getting more than the other fellow is getting, and they told me they didn't think it was right." In other words, to make it plain, men, they are who I call pets, that is what they call them over there—

Q. Call them anything you please. I don't know any of them.

A. (Continuing) —was getting more, for some reason, than a fellow that they know themselves was worth more than they were, and they didn't think it was fair. It was really that, that was one of the things that made me to
1230 get this proposition up, to remove that jealousy or suspicion among the men, and establish a better relation between them and the management.

Q. The relation was bad?

A. They were at the time, yes.

Q. Lots of agitation in the shop?

A. Well, I wouldn't say lots of agitation, but when a man hasn't got a clear mind, when he is worried, and full of fear all the time, he can't produce, because, after all, it is not the hands that make the mind move, it is the mind that makes the hands move, and when that condition is there, there is less efficiency.

Q. What was this fear you brought up at that time?

A. Fear about job, fear about the man on one job being placed on another that he is not so good at, that he don't do just what they think ought to be done.

Q. Did the men express that to you?

A. More often than once.

Q. Who were some of the men that expressed that to you?

Trial Examiner Batten: Was this a conversation?

Mr. Lamfrom: No, I am just diverting a little.

Trial Examiner Batten: I don't think we had better get into that realm. Let's get these meetings and conversations straightened out first, Mr. Lamfrom.

Mr. Lamfrom: Of course, the witness has quite an
1231 agile mind, and I believe it is within the province—I am merely suggesting this—of the cross-examiner to take an agile mind like that over quite a broad field as quickly as his mind will work, in order to test his memory and veracity. That's all I am trying to do.

Sure, go ahead, Mr. Rissman.

Mr. Rissman: I think the relation of the conversations and the dates and the details of it is a sufficient test of the witness' memory. The things that prompted him to make certain

statements in this conversation with Mr. Harold Falk and Mr. Herman Falk are not material and necessary at this time, unless Mr. Lamfrom intends to show that they were for some purpose other than the witness states.

Trial Examiner Batten: Mr. Lamfrom, I have no objection to your cross-examining this witness in any way you see fit, except that I do rather definitely feel that the cross-examination should be confined and have some relationship to the matters which were brought out on direct examination, matters which seem to be at issue here.

Mr. Lamfrom: I quite agree with that.

Trial Examiner Batten: I mean, we cannot get too far afield here.

Mr. Lamfrom: I aim not to do it, but I may stray away once in a while. We all do that. So let's drop that for the time being, at least, and go on with your conversation.

1232 Q. (By Mr. Lamfrom.) Do you remember where you left off?

A. I would like to hear it.

Trial Examiner Batten: I think I will caution the witness at this time that, when you are asked questions about conversations, if you will just drop everything else, and simply tell us the conversation as to what you said and what the other man said, you probably will not get to the point where you get afield. Just tell us the conversation, then I think we can probably confine it pretty close.

The Witness: Thank you.

(Record read by the reporter.)

Trial Examiner Batten: I think if you will proceed from the point where you were discussing Herman Falk, you stated they had made about \$900,000. Now, proceed from that point on.

Mr. Lamfrom: Yes, I think that is a good place.

Q. (By Trial Examiner Batten.) Tell us what was said at this conference.

A. I didn't want them to thing I was getting that information for any other purpose.

Q. Now, Mr. Kinch, I don't want to have to tell you again that we are not concerned about these sidelights, or what you think, about them. What we are concerned about here is what you said to these men, and what they said to you, so, starting in at that point, when you said to Herman Falk, "Didn't
1233 you make about \$900,000 in 1929," from that point tell us what was said the rest of the meeting, as you recall it.

Q. A. From then on, I started about this proposition, that I had a proposition in mind, or rather, that I was formulating a proposition to remove some of the evils that, after all, was causing a good deal of dissension among the men, between the management and the men.

He asked me what it was.

Then I told him about the various men getting what I thought was treated pretty fair, and some that wasn't treated fair. In other words, it was favoritism, whereas, I was after to eliminate the favoritism, and make everybody stand on their own feet.

Well, he thought that might be a good idea.

Q. (By Mr. Lamfrom.) Who? Herman?

A. Yes. And he says, "Put that proposition in the form of writing, and let's see how it looks."

Q. Oh, Herman said that?

A. Yes, Herman. Then I said some more.

I didn't say that I wasn't coming back, or that I was, or anything.

Q. That ended the interview?

A. That practically ended the interview.

Q. Harold Falk didn't say to you, "Now, Mr. Kinch, 1234 put these ideas of your in writing, and then come back and we will discuss it?"

A. Well, they were talking together, but Mr. Herman Falk was the first one that mentioned it.

Q. And if it appears here that Mr. Harold Falk said in effect, "Suppose you reduce your plan to writing, and when you have got it in that shape, let's you and I sit down and discuss it"—Mr. Falk testified that way—would you say that Mr. Falk was not testifying to the fact?

Mr. Rissman: I object. What appears in Mr. Falk's testimony, as to his conversation with this witness, cannot be used as a yardstick for the testimony of this witness.

Mr. Lamfrom: I can use anything.

Mr. Rissman: He has testified what his recollection of the situation was, and who he recalled made the statement. If there is any discrepancy, it will be apparent.

Trial Examiner Batten: I think if the question is asked this witness whether or not this statement of Mr. Falk's is correct, or whether he recalls it, I don't see any objection to that.

The Witness: A. I am quite positive that Mr. Herman Falk asked me to reduce it to writing.

Mr. Lamfrom: That is not the question, Mr. Kinch.

Read the question to him.

(Question read by the reporter.)

235 The Witness: A. Yes.

Q. (By Mr. Lamfrom.) You would say that he was not testifying to the fact?

A. Yes. I don't recall that he said it.

Q. You don't recall it. Would you say that if Mr. Harold Falk testified here as follows, in effect: "If you"—referring to you—"have got anything in that plan that is worth taking out of it, we can get some benefits out of it and the men can get some benefit out of it, I will be glad to discuss it with you?"

A. I don't recall Mr. Harold Falk saying anything like that. Most of our talk, Mr. Herman Falk was the one that one the most of the talking.

Q. Well then, that was October 6th?

A. Yes.

Q. And when did you next see Mr. Harold Falk respecting this matter?

A. On October 26th.

Q. October 26th?

A. About 1:30.

Q. And what was the testimony that you gave as to how you happened to meet with him that day?

A. Mr. Green came and asked me to come, that Mr. Harold wanted to see me.

Q. By that time, you had committed your plan to writing?

236 A. It was already in the hands of the shop representatives.

Q. Which recalls me to what I was getting at before. I am not sure of this one point, Mr. Kinch, and I think it is a matter of some consequence here: On October 5, when you first talked to Mr. Falk, you did not have the plan in writing?

A. No.

Q. It was in your mind?

A. Yes.

Q. On October 6, when you called on him, had you, as yet, committed your plan to writing?

A. No.

Q. So, sometime between October 6th and the latter part of October, when you saw him again, you did commit it to writing?

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A. Sure.

Q. About when was it that you committed it to writing?

A. Well, I guess it was completed about around the 22nd or 23rd, some place around there.

Q. Did you work on it nights?

A. Sure.

Q. At home?

A. Yes.

Q. Was it in typewritten form?

A. Yes.

1237 Q. When you submitted it?

A. I wrote it in longhand, then I had the girl type-write it.

Q. Some person typewrite it?

A. Yes.

Q. Then you gave the members of the Council representing the men copies, as you testified?

A. Yes, with a fly-sheet in each copy for their signature.

Q. Yes. And your idea in these classifications was to bring men who were in the upper wage rates down to some extent, and the men who were in the lower wage rates up to some extent, so that they could have a more equable return for the work they were doing?

A. No. I didn't see anybody in The Falk Corporation that was getting too much, to bring them down, but I did see this: That some men, that could be given a smaller percentage of raise, would be put in the upper class, and those in the lower class given a higher raise, to make them more even.

Q. Then, came the meeting of the Works Council, at which you submitted this plan?

A. Yes.

Q. When was that?

A. Why, it was the second Thursday, I believe, in November.

Q. And the Works Council took your proposal, and, in accordance with the constitution and by-laws of that
1238 association, it was to be submitted to the management?

A. Yes.

Q. And thereafter, the management made its reply, and that matter came before a meeting of the Works Council, did it not?

A. Yes.

Q. Now, Exhibit 24, which I am handing you, is a copy of the minutes of the Forty-First meeting of the Works Council held December 10, 1936?

A. Yes.

Q. That is the meeting we referred to?

A. Yes.

Q. When the reply of the management was taken up. Have you gone over the copy which is here in evidence, Exhibit 24?

A. Yes, I am quite familiar with it.

Q. And you have quite a good recollection as to the main things that were done at that meeting?

A. Yes.

Q. You have a distinct recollection, I suppose, as to the action taken upon the management's reply?

A. Yes.

Q. I call your attention to the following excerpt from the minutes:

"A motion to accept the conditions of the management's reply"—or, I will go back a little further:

1239 "Attached is a proposal which was presented to the management after the November meeting, and also the management's reply to that proposal."

Now, "That proposal" means your proposal?

A. Yes.

Q. (Reading.)

"A motion to accept the conditions of the management's reply was voted on as follows: Employee representatives, six in favor, one against, one not voting."

That is the correct—

A. That is correct.

Q. (Continuing.) —happening at that meeting?

A. Yes.

Q. You were the one voting against?

A. Against.

Q. Who was the one not voting?

A. I don't recollect. He never put it in the minutes.

Q. You don't recollect that. The six that voted in favor of accepting the management's reply were whom, do you remember?

A. Well, if I knew who they were, I would know the fellow who didn't vote.

Q. I didn't get that.

A. All but one.

1240 Trial Examiner Batten: He said if he knew the others, or knew those that had voted affirmatively, he would then be able to figure out the one that did not vote.

Mr. Lamfrom: I may have been putting the cart before the horse, but the result would be just the same.

Q. (By Mr. Lamfrom.) Do you know who voted among the six?

Mr. Rissman: I think we ought to know if it was an open or closed vote.

Q. (By Mr. Lamfrom.) Do they vote by ballot?

A. No.

Q. Or viva-voce?

A. No, they just say, "Those in favor say 'aye' ", and pretty much as though it was unanimous.

Mr. Lamfrom: I move that that last gratuitous remark be stricken. It doesn't mean anything.

Trial Examiner Batten: It may be stricken.

Q. (By Mr. Lamfrom.) Now, then, this is a correct report of the proceeding?

A. Yes.

Q. Then, in accordance with the constitution and by-laws of the association of which you were a member, and a representative of the employees, the matter of the suggestion of Anton Kinch, representing employees concerning classifications, and the management's reply thereto, was by a vote of both the employees and employer representatives dis-
1241 posed of, wasn't it?

A. Yes.

Q. And that ended the matter as far as you were concerned?

A. Yes.

Q. You accepted the decision, did you?

A. Sure.

Q. And after that, you did nothing concerning this matter?

A. Well, I did; I did.

Q. Well, what did you do?

A. I went to see—there were several members of the Works representatives that promised to support the proposition at the meeting that we held the day before, or two days before the regular meeting?

Q. Yes. And at the regular meeting—

A. They all agreed that my proposal was okay, and that their men was anywhere from 80 to 85 per cent in favor of my proposition.

Q. That is what they told you?

A. Yes.

Q. Then came the meeting, the minutes of which I have referred to?

A. Yes.

Q. And the management's reply was in?

A. Yes.

Q. It was read at the meeting?

1242 A. Yes.

Q. And the matter was disposed of as the minutes record?

A. Yes.

Q. And then after that, you had some conversations with these men who, before this meeting, had said your proposal was a good one?

A. Yes.

Q. And where did you have these conversations with them?

A. On my way home. In fact, I think I made it my business to go, as I was going home I met Mr. Adamski. I first met Mr. Jones, and I asked him.

Q. Yes.

A. "Here, what was the matter with you? You fellows agreed that the proposition was all right, and you told me yourselves that 80 to 85 per cent of your men was in favor. Then when the meeting comes, you turn kind of white in the face and agree to accept to the Falk proposition?"

He says, "Well, you know, I am married, and I have got children."

Q. I didn't get that. You dropped your voice.

A. He said, "You know, Mr. Kinch, I am married."

Q. Anybody else?

A. There was a few fellows that stopped me, they looked like they were going to stop me and ask me what I thought of the proposition, but I walked away.

1243 Q. That was in the plant where they were going to talk to you?

A. Yes.

Q. And after the meeting of December 10th, you did not discuss this matter in the plant at all with anyone?

A. There was no use to discuss it.

Q. Did you?

A. No.

Q. Now, at the time that you were working in behalf of your proposition, prior to the meeting of the Council on December 10th, 1936, was there any time that you came down to the plant, ahead of the time that you were expected down to start to work?

A. No. Should I tell you?

Q. Yes. I want you to.

A. My time cards show, from all the time I worked at The Falk Company, which is over seven years, that I came to work about the same time, about three-quarters of an hour or more before the working time, I used to sit down to read the paper, or read different things.

Q. In other words, your time, at least the time of the commencing of work for you during this period when this proposition of yours was under discussion, was 8:00 o'clock?

A. Yes.

Q. And frequently you came down at 7:00 o'clock?

1244 A. Always.

Q. You always came down at 7:00 o'clock?

A. From the time I been there until I left.

Q. To read the paper?

A. That varied from fifteen to twenty minutes, sometimes.

Q. Yes.

A. Sometimes I would forget to punch the clock, and it would show probably that I didn't show up until 9:00, but that is very few times.

Q. The factory, or plant, would start work on some shift, the day shift, at 7:00 o'clock?

A. Yes.

Q. Now, isn't it a fact that frequently during the weeks in which this petition was up for discussion, and so forth, that you came down at 7:00 o'clock and went circulating among the men who were working at the plant between 7:00 and 8:00, and discussed this matter of your ideas and petition with them?

A. I had never went to see anybody; only those that came to me and asked me questions, it was my duty to answer as best I could.

Q. Please answer my question. Did you or did you not?

Mr. Rissman: He answered it.

Trial Examiner Batten: He said he didn't.

Mr. Lamfrom: Then he went on. I merely wanted
1245 to stop him when he finished answering my question.

Q. (By Mr. Lamfrom) You say the men came up to you?

A. Yes.

Q. In other words, men who were on the regular day shift, commencing at 7:00 o'clock, came up to you, who were not supposed to commence work until 8:00 o'clock, to discuss these matters with you?

A. It would be a few minutes before work.

Q. Did they come during the day?

A. Yes, occasionally a fellow would stop and say, "How about so-and-so and so-and-so? Tell us about it."

Q. Yes.

A. I would say, "Well, so-and-so may be." That ended it; maybe three minutes, five minutes, there may be a few times as high as ten minutes, but it was my duty to listen to it.

Q. In other words, it was your duty, as a member of the employees' division of the Works Council, to come down to the plant at 7:00 o'clock in the morning, to be available for interviews, questions and discussions with the men who were on the day shift, working at 7:00 o'clock in the morning, is that right?

Mr. Rissman: That is not his testimony.

The Witness: A. didn't say that.

Trial Examiner Batten: Just a minute. Let him answer.

I think he is perfectly competent to answer.

1246 Mr. Lamfrom: He is all right.

Trial Examiner Batten: You may answer.

The Witness: A. I didn't say that at all.

Q. (By Mr. Lamfrom) Well, that happened?

A. Well, I came in for seven years, that was my regular time. If the occasion arises that somebody came, somebody had some grievances as I passed their work, they stopped me and asked me, "How about this, how about that?"

Q. For seven years?

A. Yes.

Q. You were only a member of the Works Council—

A. But they would stop me about something else.

Mr. Lamfrom: Wait a minute. Wait a minute.

Mr. Rissman: Let him answer.

Q. (By Mr. Lamfrom) You were only a member of the Works Council for a short time prior to that, weren't you?

A. Yes. But they used to stop me before I went on the Council, and ask me some questions.

Q. For seven years, when you were employed there, during that time these men would stop you, when you came in in the morning an hour ahead of your regular time, they would stop you and ask you questions, and make complaint to you?

A. No, they didn't make complaint before.

Q. Tell us what happened then.

A. Well, something, some current event occurred, 1247 they thought I was pretty well posted, they would stop me, "What do you think about this?", which would only take a second or two. I would say, "So-and-so," and I walked to the washroom to change my clothes. That was nothing unusual for them.

Q. After you went to the washroom and changed your clothes, between 7:00 and 8:00, 8:00 being your working time—

A. Yes.

Q. (Continuing) —you would sit around reading the paper?

A. I always sat at my bench, waiting, reading my paper, people would come up and ask me questions. If I knew it, I would answer; if I didn't, I would say, "You will have to see somebody else."

Q. How did you happen to come down for seven years at 7:00 o'clock in the morning when your regular time commenced at 8:00?

A. I came down to kind of relax, and read a paper, nothing in particular. There are other men that used to come down at the same hour.

Q. I am talking about you.

A. Well, that was my reason.

Q. What time would you have left the factory the night before?

A. You mean my pob, my work?

Q. Yes.

A. Well, 4:30, sometimes 5:00, sometimes 6:00, if I 1248 work overtime. There was a time when I worked until 10:00.

Q. Invariably, practically all the time, you came down at 7:00 o'clock in the morning, you would relax and read the paper?

A. With very few exceptions, I would be down at between 7:00 and a quarter past 7:00. I walked down and walked home.

Q. Isn't it a fact that during the time this petition of yours was under discussion, and being worked at by you that you interviewed a number of men while they were at their work, between the hours of 7:00 and 8:00 in the morning, and discussed it with them?

A. Unless they asked me, I never went to them.

Q. But if a man asked you to discuss it with him, you did discuss it with him?

A. Certainly, I had that right.

Q. You thought you had that right?

A. Yes.

Q. Did the foreman ever tell you to stop that?

A. Never.

Q. Did the foreman ever tell you to stop circulating the petition around? I am not saying that you did, but did the foreman ever tell you to stop circulating the petition around during working hours.

A. Never.

1249 Q. Then anyone who has testified here to the effect—the foreman—that he did, is not telling the truth, is that correct?

A. That is correct.

Q. You were never asked by a foreman not to circulate any papers?

A. The only time I was asked, was to withdraw the petition, not to not circulaize, but to withdraw the petition, was by Mr. Green on October 26th.

Q. He asked you to withdraw the petition?

A. Yes.

Q. He did not ask you not to circulate it?

A. No.

Q. That was the testimony you gave this morning with respect to that conversation?

A. Yes.

Q. And that was the only conversation you had with anybody respecting the circulation of the petition?

A. Yes.

Q. Or respecting talking with the men between the hours of 7:00 and 8:00?

A. Yes.

Q. Nobody ever reprimanded you for that?

A. If they had, I would not have done it.

Q. Isn't it a fact that one Saturday, December 26th,
1250 as a matter of fact, you induced a number of the men working near you not to come down that day, and you didn't come down either?

A. No.

Q. Did you ever have any conversation with any of the men on that?

A. No.

Q. Was that ever brought up against you as a matter of complaint by anybody?

A. No, sir. I told Mr. Henderson, I asked Mr. Henderson two weeks ahead of time, and told him I would not be to work at that date.

Q. Yes.

A. And he said it was all right.

Q. Who is Anderson?

A. The foreman, or superintendent, rather.

Q. Did you ever talk to any other of the men working there—

A. They talked to me.

Q. Did you ever talk to any of the other men working there near you, and tell them it would not be necessary for them to come down on December 26th?

A. I should say I didn't.

Q. You never did that?

A. No, sir.

Q. Did you have in mind, Mr. Kinch, that this proposed 1251 posal of yours, which would have the effects, at least, of probably lowering the wage earnings of some of the men and increasing the wage earnings of others—

Mr. Rissman: Just a minute. That is not the testimony. There is nothing in the record like it.

Trial Examiner Batten: Just a minute. Mr. Rissman, I think if you will let him proceed with this witness, I think this witness is perfectly capable of taking care of himself.

If you will just let him proceed, I think we will get through some time.

Mr. Lamfrom: I will strike that out, and put it differently.

Trial Examiner Batten: All right.

Q. (By Mr. Lamfrom.) Did it ever occur to you that the circulation of this petition and the explanation that you gave of its effect to the men working there would cause considerable discontent among those that were earning higher wages, and put them in fear that their wages might be reduced?

A. No.

Q. Did you ever hear anything of that kind going around?

A. But they signed 100 percent, or 98 percent of them signed it.

Q. 98 percent of whom?

1252 A. In my department.

Q. In your department?

A. The people I represent.

Q. And the classifications were only for your department?

A. No, for the whole factory; but they stopped it.

Q. Who stopped it?

A. Green stopped the circulating of this petition.

Q. This petition, it appears, was circulated throughout the entire plant?

A. Well, they stopped it. What the other representatives did, I was unconcerned, it was up to them how they went about it. This is the instructions I gave them:

Q. Yes.

A. "At noon time, get your men together and explain the proposition, and those that are in favor, have them put their names on it so there are no 'ifs' and 'ands' about it. Those that are in favor, all right. If they are not, then I know where I stand."

Q. In the preparation of this petition, and your concern about the well-being of the Falk employees, and the presentation of the petition to the Works Council by you as an employee representative, was done for the purpose of obtaining for the employees better working conditions, was it not?

A. Well, I wouldn't say, "working conditions."

Q. Well, what was the purpose of it?

1253 A. I would say improving the relation between the management and the men themselves.

Q. Improving the relation between the management and the men themselves?

A. Yes, and between themselves with the management, and between themselves.

Q. And between the men themselves?

A. Yes, between the men themselves.

Q. To create a better feeling—

A. Exactly.

Q. (Continuing.)—between the men themselves?

A. Exactly.

Q. That was your prime purpose?

A. That was my prime purpose.

Q. And, incidentally, a better feeling between the men and the management?

A. The management would get the benefit of it.

Q. That would be an incidental result?

A. Yes.

Q. But your prime purpose in the preparation, circulation, and what occurred thereafter with reference to this pe-

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tition, as far as you are concerned, was to get a better feeling among the employees themselves?

A. No, I wouldn't say that.

Q. Well, what was it? Let's get that clear.

1254 A. My purpose in working out that proposition, was this: If the men would understand each other better, and know what each other is getting, it would create better feeling among the men, and therefore it would increase the production and help the management.

Q. But the prime purpose of it was to create this better feeling among the men as workers in the Falk plant?

A. And the management.

Q. And the relation between the men and the management, and incidentally, by the increase in production, which would flow from that relationship so improved to benefit The Falk Corporation?

A. You can't benefit one without benefiting the other.

Q. Part of your objective was to benefit The Falk Corporation, wasn't it?

A. Why, I would say "50-50."

Q. "50-50"; 50 percent was to benefit the relationship among the men, and, by reason of that improved relationship as so benefited, the other 50 percent to benefit The Falk Corporation, is that right?

A. That is correct.

Q. At the time you made this request, prepared these papers and gave this matter the thought that you did, what organization or labor union were you a member of?

A. None.

1255 Q. Are you a member of any labor organization today?

A. No.

Q. Have you been?

A. I made application.

Q. To what?

A. I asked the boys to submit my application for the—

Q. The C. I. O.?

A. (Continuing.)—the C. I. O., yes.

Q. Recently?

A. But I done from Florida.

Q. You did that from Florida?

A. Yes. I wrote.

Q. After you left the employment of The Falk Corporation. You have a farm in Florida, haven't you?

A. No, sir.

Q. No farm?

A. No.

Q. There seems to be a general impression among the men that I talked to that you have made a statement—I just want to get this right—that you had a farm in Florida, and when you left here and went down to Florida, you were going to become a resident of Florida, is that right?

A. I don't think I made such a statement, that I had a farm. I said I had a home; so I had a home here.

Q. Did you own a home in Florida?

1256 A. I didn't say that. I said I had a home.

Q. I asked you whether you do.

A. I do not.

Q. You are stopping with some friends down there?

A. Yes.

Q. That is what you call your home in Florida?

A. Yes.

Q. Is that friend some relation of yours?

A. None at all. We have been friends for years.

Q. You don't own your home here in Milwaukee, do you?

A. Well, I call it home where I live, of course.

Q. You call home the place where you spend your days for the time being?

A. Sure.

Q. And in that sense, you have a home in Milwaukee, and one in Florida?

A. Yes.

Q. And do you now reside in Florida, or reside in Milwaukee?

A. I am now residing in Milwaukee.

Q. Your intention is to stay here?

A. If you don't send me back.

Q. Well, I, for one, will not send you back. During the time that you were residing in Florida—by "residence," I mean your actual physical presence, and your idea that that is your home for the time being?

1257 A. Yes.

Q. While you were residing in Florida, you did some farming?

A. Well, I did plant a few string beans and a few potatoes, for experiment, to see what I could do, if they would grow.

Q. Working with this friend of yours?

A. Yes.

Q. And you and he worked in the garden, and fished?

A. Yes.

Q. Did you have any luck with the fishing?

A. Well, we had some good luck with the fishing.

Q. While you were there, did you attempt to get any work?

A. That is a poor place to look for a job.

Q. (By Trial Examiner Batten.) The question is, did you?

A. No, I didn't.

Q. (By Mr. Lamfrom.) Well now, you were discharged on December 31st, weren't you?

A. Yes.

Q. When did you leave for Florida?

A. I don't know exactly. I think it was January 14th or 15th.

Q. About the middle of January?

A. I put in my application with the State Employment—what do they call it? Wisconsin Employment Bureau?

Q. That's right.

A. And then I waited around a few weeks—I am expressing just my opinion now—I felt that, due to the circumstances and everything, I would have a tough time to get a job here.

Q. Why was that?

A. Well, I don't know whether that would have any what I may say bearing, or whether my belief was right or not, but I felt that this association keeps pretty good tab on things, and I thought with all these difficulties with Falk, probably I would have a tough time to get a job in Milwaukee unless I changed my name.

Q. But you didn't do that?

A. No.

Q. And having the feeling that you would have a pretty tough time to get a job here—which is your own opinion, isn't it?

A. Yes.

Q. You went to Florida?

A. Yes.

Q. It took you about three or four days, I suppose, on the regular train service, to get to Florida, to get down there, didn't it?

A. No. I went from here to Washington.

Q. You went from here to Washington?

A. Yes.

Q. You stayed in Washington a while?

1259 A. Yes. I was in Washington for about ten days.

Q. For about ten days?

A. Yes.

Q. That would take you up to about January 25th?

A. I reached Florida, I think it was somewhere around the 26th or 27th, somewhere around there.

Q. And in Washington, I suppose you enjoyed the sights and the orations of the congressmen and orators?

A. Yes, I really enjoyed it.

Mr. Rissman: I move to strike that out.

Trial Examiner Batten: We are getting pretty close to the end now.

Mr. Rissman: I hope so.

Mr. Lamfrom: Sure, you hope so. There is every reason for you to hope so.

Q. (By Mr. Lamfrom.) Now then, you went from there to Florida?

A. From there to Florida.

Q. Yes; and started gardening and fishing?

A. Well, yes, a little gardening and fishing.

Q. Took life comfortably, easy?

A. Well, I wouldn't say comfortably. There are quite a few mosquitoes at times.

Q. Outside of the mosquitoes, you had a very nice comfortable time?

1260 A. Yes.

Q. And when did you get back here?

A. Last Friday. I don't know what the date was.

Q. And while you were in Florida, bothered some by the mosquitoes, as you have led us to believe, did you attempt to get any work anywhere, any regular employment or job?

Mr. Rissman: You asked him that question, and he answered it.

The Witness: There was no job there.

Q. (By Trial Examiner Batten.) The question is, did you make any effort to secure one?

A. No, I didn't. I wrote to this employment bureau.

Q. (By Mr. Lamfrom.) The Wisconsin Employment Bureau?

A. Yes.

Q. Unemployment Bureau?

A. Yes.

Q. And did you hear from them?

A. Yes, they sent me a notice, and told me they didn't have a job for me.

Q. Your thought in going to Florida, rather than to stay here, was for what reason?

A. Cheaper living.

Q. Cheaper living down there?

A. Yes.

Q. You felt you couldn't get a job here on account of Metal Trades, and that if you couldn't get a job here, you would go down to Florida and live down there, you could live more cheaper, is that right, while you were waiting for something to turn up? Is that right?

A. Well, not exactly. I had my eyes open all the time, if anything turned up, I would be on the job, but it didn't.

Q. While you were in Florida, did you make any effort to get a job there?

A. No. But I did thought that something might develop down there in the fishing line. There are people over there that make money fishing.

Q. You are telling me? I know it.

Trial Examiner Batten: Not fishing?

The Witness: Yes.

Mr. Lamfrom: Yes, professional fishermen.

Trial Examiner Batten: I thought you meant taking the tourists out to fish.

Mr. Lamfrom: No, they don't make any money on that.

Q. (By Mr. Lamfrom.) Outside of what you have testified to, since you left The Falk Company, you have done no work, or made any other or further attempt to get any situation?

A. Yes, that's about right.

Mr. Lamfrom: The end which was so devoutly wished I think is here.

Trial Examiner Batten: You mean, wished by the Examiner?

1262 Mr. Lamfrom: No, not by you, but by my friend on the other side.

Mr. Rissman: Have you finished?

Mr. Lamfrom: There may be something I might have omitted. With your indulgence, Mr. Engelhard would like to ask the witness two or three questions.

Q. (By Mr. Engelhard.) Mr. Kinch, do you recall that

you visited a man by the name of Ramsey, to have his signature put on the petition?

A. No, sir.

Q. Do you know who Mr. Ramsey is?

A. Yes, sir.

Q. You didn't solicit him?

A. No, sir, though he came to me.

Q. He came to you?

A. Yes.

Q. Will you tell us what the conversation was between you and Mr. Ramsey?

A. During the lunch time, he came to me and wanted to know about the proposition, and I explained it to him. He said, "You know, I didn't sign it."

I said, "That's all right. This is a free country, and I hold nothing against anyone that doesn't sign it."

Q. I am not asking you that. I am asking you, what did he say and what did you say.

1263 A. That is what I am telling you.

Q. You said you were not holding anything against anybody? Did you say that to him?

A. To him, yes.

Q. All right. Go ahead and tell us what he said.

A. And he went on telling me that he was a member of some other union, and I says that was all right.

"Well," he said, "I like that proposition." He said, "After I read it a few times," he says, "it looks pretty good." He says, "There is only one thing on that proposition that I don't like."

He said, "A man has to serve here so many years before becoming qualified to class A."

"Well," I said, "I thought that was the best proposition in the whole plan."

He said, "You know, I only been working here a short time, and it would kind of stop me from getting into the first grade."

"Well," I says, "you can't change the plan for one man. If you don't sign it, it is all right with me."

There was more than one man there, when I told him of it, it was during the lunch time.

Q. He didn't sign it?

A. I don't know whether he ever signed it or not, because I never went around with the petition and asked any-
1264 body to sign.

Q. I am asking you whether or not you presented the

petition to Mr. Ramsey and requested him to sign the petition.

A. No, positively not.

Q. Did you ask him his wage rate?

A. No.

Q. Do you deny that you asked him his wage rate, and he refused to give it to you?

A. Positively.

Q. You deny that positively?

A. Absolutely.

Q. Do you recall having a conference with Mr. Greget, in which you asked him his wage rate?

A. I don't recall ever having a conference with Mr. Greget, asking him his wage rate.

Q. You don't recall that?

A. No.

Q. Might you have had a conference with him, that you cannot remember at this time?

A. Oh, it might be that during the course of conversation he said something about the wage rates. He is a high man. He may have asked me about what effect it would have on those that are in the upper brackets, in explaining him the proposition, I says, "You know, there is nothing in this 1265 proposition that would even suggest lowering you men or the wage of anybody."

Q. I am asking you now whether or not you didn't have fifteen to twenty minute or possibly longer conversation with Mr. Greget while he was at work?

A. If I had any conversation with Mr. Greget—

Q. Mr. Greget.

A. Mr. Greget. If I had any conference with him at all he came to me, I never went to see anybody.

Q. I am asking you now whether or not you had a conference with him while he was at work, while he was working at his machine, while he was working at it.

A. I couldn't tell you that, because if he came to me, whether he was at work, I can't tell you whether he was working or not.

Q. I am asking you whether you went to him while he was at his machine and talked to him.

A. I never went to anybody while they was working at their machine, and not to him.

Q. Not to anyone else?

A. Not at all, that I recall.

Q. And talked to him about your proposition, or anyone else in the plant?

A. If they came to me, yes; I can't recall, I don't remember that he came to me.

1266 Q. (By Trial Examiner Batten.) The question is, did you ever go to a place where one of the other men was working at his machine, and talk to him about your plan?

A. As far as I recall, I never have, but there might have been a time that somebody called me over as I passed to work. I don't recall it, though, one single time.

Q. (By Mr. Engelhard.) Did you ever stop men who were passing through your department and talk to them about your plan, during the working hours?

A. I don't recall one single time doing that, during working hours.

Q. And what single time was that?

A. I don't remember one single time, I say.

Q. Oh, you don't remember one single time. Then you deny that you talked to Mr. Greget during working hours for a period of fifteen or twenty minutes, or probably thirty minutes?

A. It might have been that he came into our place. I done a lot of business—not business, but work with Mr. Greget. Mr. Greget used to bore the cases that I assembled, and sometimes he would come over during working hours and check up on things. That happened several times.

Q. Did you talk with him?

A. I talked with him.

Q. About this working plan?

1267 A. I don't recall it, unless he asked me some question on it.

Q. Did you ever talk with him about this plan, and he told you not to talk with him about it during working hours?

A. Never, he never said anything of the kind.

Q. Who is your foreman over there?

A. Mr. Henderson,—he is the superintendent.

Q. Who was your foreman?

A. I guess it was Dukas.

Q. Dakhart?

A. Dakhart, however you pronounce it.

Q. Didn't Mr. Dakhart tell you several times to quit going into other departments during working hours?

A. Positively not.

Q. And talking about your proposal?

A. Positively not.

Q. Did he ever tell you to quit talking about the proposal to men while they were at work?

A. Positively not.

Q. Either in your department, or in other departments?

A. Positively not.

Q. You stated this morning that when Mr. Falk told you that they had a loss the prior month, which would be the month of September, 1936,—

A. Yes.

1268 Q. (Continuing.) —of \$18,000, that you did not believe that?

A. No, I didn't say I didn't believe it.

Q. Well, did you believe Mr. Falk when he made that statement?

A. I didn't, but I didn't say that.

Q. I say, did you believe him when he made that statement?

A. No, I didn't.

Q. Why didn't you?

A. Because there may show up losses in that month, but they actually made it, or the bills could not have been paid.

Q. Did you know whether or not The Falk Corporation suffered a loss of \$18,000 in the month of September, in their foundry?

A. I did not.

Q. Mr. Falk told you that, however?

A. Yes.

Q. Did you have any reason not to believe that statement?

A. Well, I have reason of my own, yes.

Q. What were your reasons for not believing that statement?

A. Because I heard it so many times. I have a right to what I want to believe and what I don't want to believe, haven't I?

Q. I want to know your basis for not believing that
1269 statement.

A. I don't know that I have a particular reason, other than that ever since I had been working there, I heard they was losing money and losing money all the time, and the plant is running all the time, I don't see why I should believe that.

Q. Do you mean that Mr. Falk told you they lost money all the time?

A. That is common knowledge—

Q. Wait a minute.

A. (Continuing). —in the shop.

Q. Wait a minute. I am asking you whether Mr. Falk ever told you that the Falk Corporation was losing money all the time?

A. That was the only time Mr. Falk talked to me directly, that he told me about it.

Q. Did he tell you in what years The Falk Corporation lost money?

A. Who do you mean? Harold Falk?

Q. Yes.

A. No.

Q. Or did any other of the officers, did they ever tell you in what years the corporation had a net loss?

A. Certainly not, they didn't tell me. That wasn't my business to know.

1270 Q. What's that?

A. It wasn't my business to know.

Q. But you went to the tax division, didn't you, and investigated the corporate returns of The Falk Corporation, didn't you?

A. Was there any better place to find out the earnings of the company than there?

Q. All right. You say you found out what they made in various years?

A. Yes, sir.

Q. What did they make in 1933, net?

A. I was not concerned about '33.

Q. What did they make in '32?

A. I wasn't concerned about '32.

Q. What did they make in '34?

A. I wasn't concerned about that.

Q. What did they make in '31?

A. I wasn't concerned about that.

Q. The only thing you were concerned about was what they made in 1929, is that right?

A. And '35; because that was the basis that I used to bring this proposition up to work.

Q. Did you have any responsible person of The Falk Corporation ever tell you that they made any money in 1935?

A. Why should he tell me that?

1271—Q. Isn't it a fact that, as you went around among these men and argued with them about your proposal,

that you represented to those men that the Falks were claiming they were losing money on their foundry, and that it was not true? Didn't you tell that to the men?

A. I didn't say on the foundry question. I wasn't familiar with the foundry business.

Q. When you told men that what the Falks were claiming was not true, what did you say?

A. I said they made money in 1929.

Q. Did they ever claim they didn't make money in 1929?

A. They never admitted it, I never seen them tell anybody they did.

Q. Answer the question. Did The Falk Corporation ever claim it didn't make money in 1929?

Trial Examiner Batten: I think he answered the question. He said he never heard them admit it.

Mr. Engelhard: Well, that, of course, is entirely different, that is an entirely different answer than what the question calls for.

What is the question?

(Question read by the reporter.)

Q. (By Trial Examiner Batten.) Did Mr. Falk ever tell you they lost money or did not make any, in 1929?

A. No. The only time he told me he lost money—1272 that he was losing money, was when I called his attention that he wasn't.

Mr. Engelhard: Just a minute.

Q. (By Mr. Engelhard.) When did you call his attention to the fact that he was not losing money, when he claimed that he was losing money?

A. When I entered the room on the 26th of October.

Q. On the 26th of October?

A. Yes: He said, "We are not making money. We are losing money."

Q. You tell me what your conversation was on the 26th of October.

Mr. Rissman: I object. We have gone all over it.

Trial Examiner Batten: I don't think he will go over that again. We are not going to go into it again, and from now on, I must confine you to one or the other of you gentlemen doing the cross-examining. We are not going to be here forever on these matters, cross-examining on the same identical things, we just are not going to do it, because it is an impossible situation.

Mr. Engelhard: It is not my intention to go over anything that Mr. Lamfrom covered.

Trial Examiner Batten: That conversation he has repeated at least four times that I recall myself, and there is absolutely no use of going into it again.

1273 Q. (By Mr. Engelhard) You stated that you called Mr. Falk's attention to the fact that they were making money when he claimed they were not making money.

Mr. Rissman: I object to that question. At the conclusion of Mr. Lamfrom's cross-examination, he said there were some things not covered by him that Mr. Engelhard wanted to cover. I have no objection to that.

Trial Examiner Batten: Permit Mr. Engelhard to finish the question, so we can determine. Read the question.

(Question read by the reporter.)

Trial Examiner Batten: Had you finished your question?

Mr. Engelhard: And I want to add:

Q. (By Mr. Engelhard.) What year had you reference to?

Mr. Rissman: Now, I object, for the reason indicated previously, that we have covered all those conferences and meetings between Mr. Kinch and both Mr. Falks. He testified about three or four meetings with them, and he has testified to when he told them he thought they were earning money, and Falks told him they were losing money, and we have that in upside down and backwards.

Mr. Engelhard's examination, as I remember, was allowed by the Examiner merely for the purpose of covering something that Mr. Lamfrom might have missed.

Trial Examiner Batten: I will sustain the objection. I will restrict it to those matters which were not covered
1274 by Mr. Lamfrom, because we certainly are not going over this whole thing again.

Mr. Engelhard: I do not intend to do that, Mr. Examiner, but this man stated that when he talked to the employer, he indicated to the employer that there were no losses, and I am just trying to find out what losses he had reference to.

Mr. Rissman: I still object.

Trial Examiner Batten: Mr. Lamfrom, I thought, went into that matter pretty thoroughly, and I am not going to permit any cross-examination on those matters that were covered by Mr. Lamfrom, and I think these matters were pretty thoroughly covered; I mean, as to this matter of losses, and so forth; and I am not going to permit any further cross-examination on the matters that, as I say, were covered by Mr. Lamfrom.

If there are any additional matters that you care to cross-

examine on, Mr. Engelhard, the Examiner will be pleased to have you proceed.

Mr. Engelhard: May I make my point clear, that in response to the question I put to him before, as to what he said to employees about losses, he stated that he told the employees that the statements made by the Falk people were not true.

Q. (By Mr. Engelhard.) That is correct, is it, Mr. Kinch?

1275 Mr. Rissman: Just a minute. I object to that as going back to the same thing again.

Mr. Engelhard: I am not now speaking of conferences with The Falk Corporation. I am talking about what he said to employees of The Falk Corporation when he interrupted them.

Mr. Rissman: Are you making your explanation to the Examiner, or the witness?

Trial Examiner Batten: We will recess for ten minutes. Perhaps then we can proceed.

(A short recess was thereupon taken.)

Trial Examiner Batten: We are ready to proceed.

I want to announce at this time that we are going to have a session tonight and tomorrow night, from 7:00 to 9:00, and those who desire to come will have to come in the West entrance, and use the North elevator, and if you advise the watchman at the door that you are coming to Room 409 to the Falk hearing, he will admit you. If you do not give that password, he will not admit you.

Mr. Clark: What is the password?

Trial Examiner Batten: "Falk hearing".

I also advised the custodian that there would be someone down at the door at ten minutes to 7:00, who has been here every day, and is more or less familiar with the men that come, in case somebody comes that is not here this
1276 afternoon, so that they will be admitted; so, if you will kindly pick out somebody that has been here, that can get down at the door from ten minutes to 7:00 until about ten minutes after 7:00, in case somebody comes that should be admitted.

We will proceed, gentlemen.

(Record read by the reporter.)

Mr. Rissman: The question is objected to.

Trial Examiner Batten: My recollection is that I sustained the objection as to anything covered by Mr. Lamfrom. I will

not permit any further cross-examination on those matters which have been previously covered by Mr. Lamfrom.

Q. (By Mr. Engelhard.) You testified on cross-examination conducted by me a few minutes ago that you talked to employees and representatives of employees, that the losses sustained by The Falk people were not true. That is correct, isn't it?

A. No, I wouldn't say that is correct, the way it is put.

Q. What did you say to the employees about the claims of losses?

A. They often came around, you know how shop talk is, and said, "Mr. Falk is going around all the time about losing money." I said, "I wouldn't worry about that, if I was you." I said, "This plant is running all the time, they are making money."

1277 Q. Is that what you said?

A. Well, I don't know whether I elaborated any more, but that is about what I said, yes, "This firm is not losing any money."

Q. Mr. Robert Gillett, is that his name, superintendent of your department?

A. Yes.

Q. He was also on the Board?

A. He was on the Council, yes.

Q. You say that he claimed that the foundry—was it the foundry that lost money?

A. Yes.

Mr. Rissman: I object. That entire matter has been gone over.

Mr. Engelhard: It is merely building the basis for a question, that's all.

Q. (By Mr. Engelhard.) Did you ever investigate as to whether what Mr. Pritzloff said was true?

Trial Examiner Batten: Just a minute, Mr. Engelhard. There is just endless testimony in here that he investigated, that he went to Madison, he did all those things. Now, we positively are not going into those things.

Mr. Engelhard: I am not going into that, your Honor.

Trial Examiner Batten: I am not going to permit examination covering those matters again. We never will
1278 finish this thing if we are going to be rehashing it, and I am not going to permit it. That was gone into before.

Mr. Engelhard: I am not asking about his investigation at

Madison. I am asking him what investigation he made as to the particular foundry loss. That would not be reflected in the Madison report.

Mr. Rissman: The reason he testified to those things, he testified he didn't know about the foundry particularly.

Trial Examiner Batten: I understood when you started to cross-examine, Mr. Engelhard, that it was upon some matters that had not been touched upon by Mr. Lamfrom, and my recollection is that that matter has been very thoroughly covered, all this matter pertaining to losses.

If there is some other matter you want to go into that Mr. Lamfrom did not cover, you may proceed.

Mr. Engelhard: I don't recall it. I don't want to be argumentative, I don't want to give that impression, but I do not recall that he has been cross-examined on how he found out what Mr. Pritzloff represented as foundry losses was not true.

Trial Examiner Batten: My recollection is that he testified that while there may have been a loss in the foundry, certainly the company as a whole did not have any loss. That is my recollection. I think the matter was thoroughly covered.

1279 As I just said, I am just not going to permit going into that matter any more, because we just never are going to get this thing to a finish if we are going to keep rehashing this thing all over.

If there are some matters that were not touched upon by Mr. Lamfrom, and you want to cross-examine this witness, I will be glad to have you do so.

Mr. Engelhard: I was just stating that Mr. Lamfrom did not go into that angle of it, about how he verified whether or not there were losses in the foundry.

Mr. Rissman: The Examiner's impression is that he did.

I will object to any further questions, or any further cross-examination on any of the matters touched upon by Mr. Lamfrom.

Mr. Engelhard: Mr. Rissman made an objection, your Honor.

Trial Examiner Batten: I will sustain his objection.

I have stated several times I am not going to permit it.

Mr. Engelhard: Is it your ruling, then, that the question I have asked him has already been gone into on cross-examination?

Trial Examiner Batten: That is my ruling, that this mat-

ter, this whole general proposition as to these losses, and his investigation, and the conversations with respect to them, have all been fully covered.

1280 Mr. Engelhard: Then I will no longer go along that tack.

Q. (By Mr. Engelhard.) Mr. Kinch, you stated that some of the men were receiving a wage that they were not entitled to, that their wage was larger because of favoritism.

Mr. Rissman: I object. That was part of the cross-examination.

Mr. Lamfrom: I didn't go into that, I didn't pursue it, I simply asked that.

Mr. Rissman: Are we to be subjected to cross-examination because you did not pursue a point?

Trial Examiner Batten: The matter was mentioned at the time Mr. Lamfrom cross-examined, as I recall it. I will sustain the objection.

Mr. Engelhard: If you please, Mr. Trial Examiner, while it is true that he testified some of these men were receiving wages that he thought was due to favoritism rather than due to their capacity to earn—at least, that is the inference—there was no question asked him as to who those men were, and I at this time wish to ask him the question.

Trial Examiner Batten: For the purpose of the issues of this case, I think it is immaterial who they were. In other words, I think a good share of the testimony which has
1281 been given here today, even by this witness, is immaterial as to the issues.

The only issue in respect to this witness is his discharge, and why he was discharged, whether the corporation discharged him for a perfectly lawful cause, or whether they discharged him because of union activities.

I can't see any relationship between who he talked to about the increase or decrease in wages, and whether he was discharged for union activities.

Mr. Engelhard. It certainly becomes material, your Honor, if he misrepresented to men in the plant that some men were receiving wages that they were not entitled to, because of favoritism.

Trial Examiner Batten: He has given his testimony, and the respondent will have an opportunity to present his case, and certainly the right to show wherein this witness' testimony is not true, and if he talked with several of these men in the plant, these men have a perfect right, at your request,

to come in here and testify as to what he did say, and the respondent has a perfect right to show that what he did say was not true, and I do not see that we can gain anything from further cross-examination of this witness in that respect.

Mr. Engelhard: Then I will suspend cross-examination of this witness.

Trial Examiner Batten: When I permitted the cross-1282 examination, Mr. Engelhard, to start with, I understood from Mr. Lamfrom that there were a few questions that probably, in his conduct of the cross-examination, as often occurs with any attorney, it is often hard to cross-examine and keep everything in mind at the same time, I got the impression that there were probably a few questions that Mr. Lamfrom had slipped up on with respect to some matter, and that you were going to fill those in.

Mr. Engelhard: Precisely, that is one of the points I marked down in my record that he had slipped up on it.

Trial Examiner Batten: Now, we are not going to rehash this thing all over. Apparently it is all settled now, anyway.

Mr. Engelhard: That will be all.

Redirect Examination.

Q. (By Mr. Rissman.) When you spoke to Mr. Ramsey, you said it was on the noon hour, during the noon hour?

A. Yes.

Q. It was noon hour for you, and noon hour for him?

A. Yes.

Q. What were your earnings at the time of your discharge?

A. That is hard to answer, because about half an hour before I was discharged, the foreman came to me and whispered to me, "You are getting 72 cents an hour."

Q. What were you actually getting up to that time, 1283 what was the rate of pay at which your last pay check was computed?

A. I don't recollect; about 65 or 66 cents, something like that.

Q. Sixty-five or sixty-six cents an hour?

A. Something like that.

Q. How many hours a week was the normal work week, and were you working?

A. Forty.

Q. You say you were advised by the Wisconsin Employment Service that pursuant to your application, they were telling you that there was no work available for you?

A. That's right.

Mr. Rissman: That's all.

Mr. Lamfrom: I move to strike the question and answers with reference to the compensation of Mr. Kinch, on the ground that under the facts as here set out in the evidence, that it is incompetent, irrelevant and immaterial.

Trial Examiner Batten: The testimony may remain in the proceedings for such value as it has.

Mr. Clark?

Mr. Engelhard: Just one moment.

Recross Examination.

Q. (By Mr. Engelhard.) Outside of putting in this application, as you just mentioned, with the Wisconsin
1284 Employment Bureau, you made no other effort to get a job in Milwaukee?

A. No, I did not.

Q. You had written to no one from Florida?

A. No.

Q. You didn't write The Falk Corporation, either?

A. No, I have not.

Q. You had no communication whatever with The Falk Corporation during that time, after you filed your application with the Wisconsin Employment Bureau?

A. Not with Falk directly, no.

Q. Of any kind, whether telephone, or personally, or by letter?

A. No.

Mr. Engelhard: That's all.

Redirect Examination.

Q. (By Mr. Rissman.) Mr. Kinch, did you correspond with Nathaniel S. Clark, the Regional Director of the National Labor Relations Board, inquiring about your job at The Falk Corporation?

A. I have.

Mr. Rissman: That's all.

Trial Examiner Batten: Mr. Clark, have you any questions?

Mr. Clark: No, I have not.

Q. (By Trial Examiner Batten.) Mr. Kinch, why did you never get in touch with Mr. Falk, with respect to reinstatement?

1285 A. I thought his attitude, the way he discharged me, it wasn't any use. I am not accustomed to begging anybody for anything.

Q. I didn't ask you if you begged anybody. I asked you why did not ask for reinstatement.

A. I didn't feel it was any use. It was really my feeling, too.

Trial Examiner Batten: That's all.

Q. (By Mr. Rissman.) You never received any communication from The Falk Company to return to work, did you?

A. No, I didn't.

Mr. Rissman: That's all.

(Witness excused.)

Mr. Rissman: Mr. Meindle.

LOUIS MEINDLE, a witness called for and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination.

Q. (By Mr. Rissman.) Will you state your name, please?

A. Louis Meindle.

Q. Are you employed by The Falk Corporation?

A. I am.

Q. How long have you been employed by them, Mr. Meindle?

A. Going on four years.

1286 Q. In what department are you now employed?

A. Welding.

Q. Who is your foreman?

A. My foreman is Henny Hedberg.

Q. How long have you been employed as a welder?

A. I have been employed as a welder from the first day I was hired.

Q. Are you a member of any labor organization?

A. I am.

Q. Which one?

A. C. I. O.

Q. The Amalgamated Association of Iron, Steel and Tin Workers?

A. That's right.

Q. The complaining organization in this case?

A. That's right.

Q. The union that filed the charges in this case?

A. That's right.

Q. Do you hold any office in that organization?

A. I do.

Q. Which office?

A. Financial secretary.

Q. How long have you been financial secretary?

A. Since the 11th of April, 1937.

Q. Prior to your membership in the organization of 1287 which you are now a member, the Amalgamated Association of Iron, Steel and Tin Workers, were you ever a member of a labor union while you were employed at the Falk Company?

A. I was not.

Q. Were you ever solicited for membership in any labor organization prior to the C. I. O. Union?

A. I was not.

Mr. Engelhard: What is the date of that, prior to the C. I. O. union? What date is that?

Q. (By Mr. Rissman.) What date did you join the C. I. O. union?

A. The exact date I couldn't give.

Q. Approximately?

A. Our charter was received the 11th of April, 1937. I believe I signed up my application card, it was the 4th of April.

Q. On the 11th, the charter was issued?

A. The charter was issued the 11th of April.

Q. Do you know Mr. Ben Koch?

A. I do.

Q. Directing your attention to the 22nd day of April, 1937, do you recall any conversation you had with Mr. Koch?

A. What was the date?

Q. The 22nd of April, 1937.

A. I believe that was the conversation I had with him 1288 when he came back from a meeting, I believe it was at the Medford Hotel, for the foremen, where they were in-

structed as to what to do and what not to do as to various laws, like the Wagner law, and the Severson law.

Q. Did you have any conversation with Foreman Ben Koch about that time?

A. Yes, several.

Q. Relating to your membership in the C. I. O.?

A. Yes; I had several conversations with him about that.

Q. Can you relate anyone for us, and give us the approximate time?

A. Yes, it was one evening, I believe it was towards the middle of the week. I was on the night shift, and I think it was about 9:30 in the evening, he came over and pulled me away from my job and started talking to me, and the first thing he asked me was, what I expected to get out of the C. I. O.

Q. What else did he ask you?

A. And I explained my reasons, and then he asked me if I don't think I could get more out of a company union than I could out of the C. I. O.

Q. Did he say to what union he referred, when he said the company union?

A. He knew what union I meant.

Mr. Engelhard: Just a minute. Did he mention company union, or did you mention it?

The Witness: I mentioned company union.

Q. (By Mr. Rissman.) Tell us what he said and what you said.

A. I said I didn't believe in any organization that was fostered and started by a corporation in regards to an outside labor organization, because the influence of what the managers has, and what the corporation has upon the officers and the members of that said organization, they can't get nowhere at all.

I said, "With an outside organization, you have no influence whatsoever by your management, and when the union is better directed than this company union they have down there at the present time."

Mr. Engelhard: I move the last part be stricken.

Trial Examiner Batten: It is conversation.

Mr. Rissman: It is conversation.

Q. (By Mr. Engelhard.) Did you say "this company union you have down there at the present time," is that part of your conversation?

A. That is.

Q. (By Mr. Rissman.) Go ahead, Mr. Meindle.

A. And that the C. I. O. is far better represented throughout the whole plant, such as grievance committee, steward system; and covers the plant more general than the 1290 union they have there at the present time, this company union.

Q. Was there any further conversation between you and Ben Koch at that time?

A. Yes, there was. He mentioned the fact that if the C. I. O. should happen to gain recognition in the whole corporation, that they would have to have a foreman over every man in order to get out the work to pay for the wages they would have to pay us, and he said we couldn't be friends any more, they would be on one side of the fence, and we would be on the other, and he did mention the fact that he would probably lose his job if the C. I. O. came in there, and the statement I replied to him at that time was that he didn't have to be afraid of his job, because the fellows liked him, they would back him to the last ditch.

Q. In this conversation that you had with Ben Koch, the relationship between you was friendly, was it not?

A. There was no—it was friendly, there was no hard feeling, or anything like that. It was more or less a debate on our own respective unions. I expressed my ideas freely, and he expressed his.

Q. What were some of the ideas he expressed in addition to those you have already given?

A. One thing that he didn't believe in, that we should spend our hard-earned money to go out of town, and said that the minute John Lewis gets enough money, he is 1291 going to skip the country.

I mentioned the fact that John Lewis was president of the United Mine Workers for a number of years, and surely if he wanted to skip the country, he had plenty of money as the president of the said organization.

Then, of course, he casted a few remarks about Adelman.

Q. Were the remarks made by Adelman favorable or unfavorable?

A. Very unfavorable.

Q. (By Mr. Engelhard.) Supposing you tell us what he said about Adelman?

A. He said he didn't see what business that big Jew had

telling us fellows what to do, and what business we had running to him.

Q. (By Mr. Rissman.) Was there any further conversation between you and Mr. Koch on that occasion?

A. Yes. The conversation, I would say, lasted for probably an hour or an hour and a quarter, but the other was very immaterial, and it didn't leave very much of an impression on my mind.

Q. But the things you have related are the outstanding things of that conversation?

A. That's right.

Trial Examiner Batten: Did you ask him where this conversation took place?

1292 Mr. Rissman: I think he told us.

Q. (By Mr. Rissman.) You can tell us again, Mr. Meindle, where did this take place?

A. This conversation took place in the Welding Department.

Trial Examiner Batten: That is what I am interested in, where.

The Witness: In the Welding Department, that is in a large cleaning room of The Falk Corporation.

Q. (By Mr. Rissman.) Where is it?

A. It is located in Department 24.

Q. (By Trial Examiner Batten.) Did he call you away from your work?

A. Yes, sir.

Q. How far away did you go from your work to carry on the conversation?

A. I would say not more than ten paces.

Q. Were you operating a machine?

Mr. Rissman: He is a welder.

The Witness: A. No, I was not operating a machine.

Q. (By Trial Examiner Batten.) I mean, were you welding?

A. Yes, I was.

Q. When he came over?

A. Yes.

Q. You shut off your torch?

A. I put my holder down. We use no torch.

1293 Q. You put your holder down, and you walked off with him?

A. That's right.

Q. How long was it before you returned back to your work?

A. I would say possibly fifteen minutes before 11:00 o'clock.

Q. How long a period were you gone then, altogether?

A. I would say about an hour and a half, possibly, to an hour and three-quarters.

Q. (By Mr. Bissman.) Then you went back to your work?

A. That's right.

Q. Directing your attention to some time early in the month of May, 1937, did you have a conversation with this same man, Ben Koch, about union affairs?

A. Yes, I believe I did.

Q. Where did that conversation take place?

A. That conversation took place also in the shop.

Q. During your working hours?

A. Yes.

Q. Is Mr. Koch in a supervisory position over you, in charge of your department?

A. Yes. At that time, he was the foreman, and at the present time he is superintendent.

Q. I mean, at the time of these conversations was he your foreman?

A. He was the foreman, except there was one talk I 1294 had with him, which was rather a lengthy conversation, that was the evening when he came back from that banquet, that Mr. Hedberg was the foreman that evening.

Q. But at the time of this conversation you told us about a little while ago, Ben Koch was your foreman, was he?

A. That's right.

Q. Now, this other conversation, in May of 1937, who was your foreman then?

A. Bud Hedberg was the foreman that night.

Q. And what position did Koch occupy with reference to your job?

A. That evening, he wasn't in the shop at all, except he came back, I would say he came back about 3:00 o'clock in the morning, and I happened to run across or meet him in the foundry about 3:30 as I was coming back from the hospital, and we talked for possibly fifteen or twenty minutes.

Q. You were coming back from the hospital, you say?

A. Yes.

Q. You went there for attention?

A. Every morning, at 3:30, we go to the hospital, and we have Argyrol put in our eyes.

Q. Go ahead.

A. And I was coming back there, and we were standing in the main bay of the large molding floor, and that is where we held our conversation.

1295 Q. What was the conversation then?

A. That is the time he told me that he had the Wagner law explained to him, and he asked me if I thought it was right that he should be stopped from mentioning his views on unions inside the plant, outside the plant, or any place whatsoever.

Q. Following that conversation, did you ever have any conversation at a later date with Ben Koch regarding the C. I. O.?

A. Why, we may have had several conversations—I know we had, but just what they were all about was probably asking me how we got along with it, and if we expected to get anything out of it.

Q. Did Mr. Koch at any time ever ask you for any information as to what went on at C. I. O. meetings?

A. No, he never has.

Q. Or the intentions of the union?

A. Why, he asked me the intentions of the union. He asked me what we expected to get out of it.

Q. Did at any time Mr. Koch ask you whether or not the union intended to strike?

A. Yes, he has asked me that, he has asked me if we intended to pull a strike down there, and I said no, and I asked him why. Well, he said he would like to give some dates on certain jobs, and he wouldn't want to give no dates if
1296 we had intended or had been planning on pulling a strike.

Q. Can you explain for us what you mean by "giving dates" on certain jobs?

A. They will probably get a job in the shop, and they will probably give a promise date when that job will be shipped out of the plant. If they get a job the first of the month, they will probably have a promise date of the 25th, that job probably has to be out the 25th, or pay a penalty.

Q. That is what he meant when he referred to dates for the jobs?

A. That's right.

Q. Were you present on May 5, 1937, at the Eagles' Club-house in Milwaukee, Wisconsin, where there was a conference between representatives of the company and representatives of your union?

A. I was.

Q. And a transcript was taken of what was said there, and what went on there?

A. That's right.

Q. Was a court reporter present?

A. A court reporter took it.

Q. In what capacity were you present at that meeting?

A. I was at that meeting in the capacity of secretary for our lodge.

1297 Q. Can you tell us who else was there on behalf of your organization?

A. Yes. Mr. Landry was there.

Q. As you name each person, will you please indicate their official position in the union?

A. Mr. Landry was there as president; and William Krueger was there as vice-president; Fred Douglas was there as treasurer; Beck was there as recording secretary; I was there as financial secretary; Stephen Foti was there as a steward, and Conrad Withy was there as a steward; Walter Bartholomey was there as a steward; Theo Filwocko was there as a steward.

Q. Can you spell that last name for the reporter, please?

A. I can't spell it.

Lee Rusy was there as a steward.

Q. And that R-u-s-y?

A. R-u-s-y, yes. Richard Bunetta was there as a steward; and there are some whose names I can't recall, or don't know their names.

Q. Can you name for us any of the persons who were there representing the company?

A. Yes. Mr. Harold Falk was there; Mr. Connell was there; Mr. Green was there; and I believe Mr. Henderson was there; Ben Koch was there; and the attorney for the company was Mr. Mann, and Mr. Adelman was our spokesman for the

1298 C. I. O. Union.

Q. Meyer Adelman was there with your group?

A. That's right, and the court reporter, and there were several fellows from the company union that were there, but they were asked to leave, and they didn't want to leave, and at the request of Mr. Falk, I believe they left.

Q. When you say "company union", do you refer now to the Independent Union of Falk Employees?

A. The same organization.

Mr. Engelhard: Now, I move that be stricken.

Mr. Rissman: For the purposes of identification.

Mr. Engelhard: The reference to the Independent Union of Falk Employees, as a company union, I move that be stricken.

Trial Examiner Batten: It may be stricken.

Q. (By Trial Examiner Batten) Who do you mean by company union?

A. By company union, I mean Independent Union of Falk Employees.

Trial Examiner Batten: Is there any objection to that question, Mr. Engelhard?

Mr. Engelhard: I am certainly objecting to having this witness characterize that union as a company union.

Trial Examiner Batten: He said "the company union", and I simply asked him who does he mean by "the company union."

Mr. Engelhard: Yes. I knew what he meant; everybody knows what he means when he talks about company union.

Mr. Lamfrom: I don't think it makes a bit of difference what he calls it.

Mr. Rissman: That's right.

Mr. Engelhard: I don't think we want the record in this case to indicate that witnesses characterize the union in such fashion.

Trial Examiner Batten: Well, I don't know Mr. Engelhard, that I could change his designation, do you?

Mr. Engelhard: I move that the reference to company union be stricken.

Trial Examiner Batten: Well, I will deny that motion that it be stricken. I can't tell the witness how he is going to designate something. That is his designation for it. I don't know what he means by it.

Mr. Engelhard: He stated he meant the Independent Union of Falk Employees.

Trial Examiner Batten: I am not going to strike his statement because it is his statement, it is not mine.

Anything else?

Mr. Rissman: That's all.

Cross-Examination.

Q. (By Mr. Engelhard) Has there ever been any
1300 serious antagonism between you and Mr. Koch?

A. None.

Q. You are buddies, aren't you, in spirit?

A. Well, I wouldn't say we are exactly buddies. We have our differences. We talk to each other there, we have no words with each other.

Q. What I mean is this: You feel free to talk to him and he feels free to talk to you?

A. That's right.

Q. And when he talked to you at this meeting, which you say lasted an hour, what was the date of that meeting?

A. Which meeting was that?

Q. The one you said lasted about an hour, what was the date of that meeting?

A. I can't give you the exact date.

Q. Was it before or after April 22nd?

A. I believe it was during the week of April 22nd.

Q. Was it before or after the meeting at the Medford Hotel?

A. That was before that meeting.

Q. That was before that meeting?

A. That's right.

Q. Are you a pieceworker?

A. No.

Q. Or an hour worker?

A. We work straight time.

1301 Q. You didn't lose any wages on account of that meeting?

A. No, I lost no wages.

Q. You saw him, and you went off to the side, about ten feet from where you worked?

A. About ten feet, I would say.

Q. No one else overheard your conversation?

A. No, no one.

Q. It was a talk between yourselves?

A. That's right.

Q. There was no spirited argument, was there?

A. None whatsoever.

Q. He was passing on his views, and you were passing on your views?

A. That's right.

Q. He didn't influence you in any way, did he?

A. He could have.

Q. What's that?

A. He could have—he couldn't.

Q. That is what I understood you to say now, he couldn't influence you?

A. Yes, that's right.

Q. He knows that?

A. I believe he did.

Q. And you had a lot of conversation about other matters with him?

1302 A. Yes, we have.

Q. And you have talked politics?

A. We have.

Q. Talked current events?

A. We do.

Q. And you show your disagreements. As a matter of fact, you like to argue a little bit, the two of you?

A. I believe we do.

Q. There was no attempt upon the part of Mr. Koch to leave the impression that he was talking for the company in that discussion?

A. Yes, he did.

Q. All right. Just what did he say that led you to believe that he was the mouthpiece of the company, rather than giving you his personal views?

A. Because he told me, and he has told others.

Q. Just tell us what he told you.

A. All right. What he told me, that we could get more out of the company union than we could out of the C. I. O., for the simple reason the officers and the men of this company union are employees of the company, and he said they have no outside organizers telling them what to do and what not to do, as we have had in our union. He said the company feels more free to deal with these men than they would with the C. I. O.

1303 Q. Didn't he express that as his opinion?

A. As his opinion.

Q. That is what I am asking you.

A. That is what I explained.

Q. You knew he was expressing his personal opinion?

A. That was his opinion.

Q. What I am asking you is, whether or not, while he was expressing that opinion, you felt he was representing anyone who asked him to say these things to you.

A. I believe him to be representing the company in that.

Q. In his opinion?

A. In his opinion.

Q. You knew from conversation you had had with him about other matters what his opinions were generally about unions, didn't you?

A. We never had any talk about any unions whatsoever until the drive started down there between the two unions, there was no union talk whatsoever.

Q. Well, that was that time that union talk was going on generally?

A. Yes, it was going on generally, but not at The Falk Corporation.

Q. I mean, among employees?

A. It was among the employees of The Falk Corporation.

Q. It was during this time it was going on. By the way, he knew you were a member of the C. I. O., didn't he?

A. He knew I was a member, yes.

Q. You told him that, didn't you?

A. I didn't.

Q. How did he know you were a member?

Mr. Rissman: I object.

The Witness: A. Somebody else told him.

Q. (By Mr. Engelhard) Did he tell you that?

A. No, he didn't tell me that.

Q. How do you know, then, that somebody else told him? Did you tell him that?

A. No; because there happened to be a few stool-pigeons at our meetings who were spies, and everything that happened at our meetings was carried back to the plant.

Q. Do you know whether Mr. Koch got his information that you were a member of the union in that manner?

A. Yes, because the same party—

Q. Just a minute. Do you know whether he got his information as to your membership by that method?

A. Yes.

Q. Did he say so?

A. He did not. But he asked me—

Q. If he didn't say so, you don't know how he got his information.

Mr. Rissman: I object. He may know in some other manner.

Mr. Engelhard: Just a minute.

Mr. Rissman: I object to the question, it is improper.
 Trial Examiner Batten: Just a minute. When he finishes, you may pursue this course of examination, if you care to.

The Witness: I don't care if he got this information from this here party or not.

Q. (By Mr. Engelhard) That is what I am asking you. You don't know where he got his information?

A. I do not.

Q. If you didn't give it to him, you don't know where he got it?

A. I do not.

Q. You say that on the 22nd day of May, you had a talk with him for about fifteen or twenty minutes in the morning. Was that a friendly discussion?

A. It was.

Q. A passing of views, one from the other?

A. That's right.

Q. Anything that Mr. Koch said to you in no manner lessened your enthusiasm for the C. I. O., did it?

A. None whatsoever. The respective unions were not mentioned at that time.

Q. I mean, at any time he talked to you.

1306 Q. None whatsoever. If it done anything, it increased it.

Q. In other words, what he said to you did not intimidate you in any manner?

A. None whatsoever.

Q. Or it did not coerce you?

A. None whatsoever.

Q. You felt that you were free to belong to the C. I. O. and that nothing would happen to you by reason of your membership?

A. No, I didn't feel that way.

Q. By reason of what he said to you?

A. No, there was nothing that Koch said to me that would lead me to believe that I would be discriminated against.

Q. That is what I am asking you. I am only asking what impressions Koch made on you, so far as your mental attitude towards the C. I. O. was concerned.

A. None whatsoever.

Q. You have testified that you had other conversations with him beside the one which occurred in April and the one in May, but you say you don't remember the details of those

conversations, because they did not impress themselves upon our mind?

A. There was one.

Q. Just one?

A. One still that left an impression now, as I recall.

307 Q. Otherwise, the conversations did not leave any impression?

A. No, they were just dilly-dally, back and forth, probably good-natured kidding.

Q. That is engaged in practically daily, isn't it?

A. That is.

Q. There is no feeling of restraint between you and Koch?

A. There is, yes.

Q. To what extent?

A. One evening I was coming from the toilet, and I went past the timeclock, there happened to be another welder there, this welder asked me if I would bring back his application which he had made out for membership in the C. I. O., and I told him I would; and coming up the aisle, I saw the superintendent, and he was watching us, and I asked this welder—

Q. Who was the superintendent?

A. Buuck. And I asked this welder to come over with me, and he came, I told him that I would bring in his card tomorrow night, and he could then do whatever he darn felt like with it, and next evening Mr. Koch came over to me.

Q. Mister who?

A. Mr. Koch came over, and asked if I didn't care to work at The Falk Corporation any more, and I asked him why. "Well," he says, "you have got to stop signing up members," and I said, "I didn't sign up no members."

1308 He said, "Didn't you have Steve over here last night, and signed Steve up?" And I denied it.

He said, "I was told you dragged Steve away from the time clock, took him over to your welding booth there, and signed him up."

I said, "I didn't." I said, "I told Steve that if he wanted his card destroyed, I would destroy it for him, but he requested it to be brought in to him, so he could hand it back at a later date."

The following evening, I brought in that application card, and; in front of Ben Koch, I tore that application card up. That is why I felt that I wasn't free any more to act as I felt like in union matters, whether it was talking to some employee about it, or anything relating to a matter of the union.

Q. When Mr. Koch asked you about this matter that was reported to him, after you made the explanation to him, did he say that he believed you or disbelieved you?

A. He didn't believe me.

Q. Did he say so?

A. Well, he said I would have to stop signing up members. He said, "You tried to sign up Steve here last night," and I told him to ask Steve, I said, "In order to show you I didn't sign up Steve," I told him I would bring the card in, 1309 and he could see the date the application was made on.

Q. Yes.

A. And I told him if he wanted any more proof, he could talk to Eddie, which is another welder, which had signed a card just about two minutes before Steve had signed his.

Q. At the shop?

A. At the shop.

Q. And who took those applications?

A. I took them applications.

Q. Then all that Koch was telling you was that you were not to take any more applications in the shop?

A. That I wasn't to sign up anybody more in the shop, under threat of losing my job.

Q. He didn't in any way indicate to you that there were any other restrictions, did he?

A. No other reason whatsoever, except soliciting membership.

Q. On the premises?

A. On the premises.

Q. During working hours?

A. During working hours or otherwise.

Q. On the premises?

A. On the premises.

Q. And that is the only restraint that you have felt?

A. That's all.

Q. Have you talked to him since then?

1310 A. Oh, yes.

Q. About union matters?

A. I have.

Q. In other words, what I mean is this: Outside of that one incident, when he told you, that it was not allowed to sign applications during working hours on the premises, or any other time on the premises, outside of that fact, you have never felt any restraint—

A. None whatsoever.

Q. (Continuing.) --in talking to him?

A. None whatsoever.

Q. He has not shown any change in manner towards you at all?

A. No.

Q. You are just as good friends today as you ever were?

A. I hope so.

Q. You heard him testify the other day, didn't you?

A. I did.

Q. He was frank?

A. Very frank.

Q. And you are frank?

A. I hope I am.

Q. You have had no discrimination in your rate of pay or anything of that sort, have you, since you have been a member of the C. I. O.?

1311 A. That I don't know, I couldn't say, except I believe in my own mind, I believe that I was discriminated against once.

Q. In what respect?

A. Because I have been at The Falk Corporation now four years, I have served my apprenticeship down there, and I have a journeyman ticket as a welder, there are only two welders, I believe, in The Falk Corporation that can produce journeyman tickets, and they have hired numerous other welders since I have been working there, probably a little better than a year's difference, and still, all these men are getting more money than I am, and I have asked Ben several times to give me a little adjustment, not all at once, to bring me up there, but a few cents now and a few cents then, and in the possible course of a year's time, that I would be up with these fellows.

Q. To whom did you make that request for adjustment?

A. I made that request to Ben Koch.

Q. And what did Ben say?

A. He thought that would be a very good idea, or rather, he had mentioned that idea. He said, "I know you are away behind," and he said, "a few cents now, and a few cents then, and in the course of time you will come up to the rest of them," and the first of July there were quite a few of the welders got a raise, and I had asked for a raise, and
1312 he said, "Nothing doing."

I said, "How about the first of August?" He said, "Nothing doing."

"Well," I said, "I suppose I will have to wait until September," and he replied he didn't think there would be any raise coming through in September. That is one reason why I believe I have been discriminated against in getting a raise, to get up with the same pay rates as the other welders.

Q. You say that is merely a belief on your part?

A. That's all.

Q. You have no evidence?

A. None whatsoever.

Q. Has that belief been in any way induced by any statement made to you by anybody connected with the Falk Corporation?

A. When this arrangement went through in July—

Q. Answer the question.

A. I am going to.

Q. Has anybody spoken to you who was connected with the management of The Falk Corporation that in any way induced you to come to that belief?

A. If you will let me answer that question with the words that exactly happened, I would answer.

Q. Certainly.

1313 A. When the July raise went through, I asked Bud, that is Mr. Hedberg, I said, "I have a pretty good idea why I didn't get a raise," and he said, "What is it? C. I. O.?" I said, "Yes," and that's all there was to that. That is the only reason that led me to believe I was discriminated against in getting that raise, or should have got a raise at that time.

Q. Do you think that Mr. Hedberg knows why you didn't get a raise?

A. I believe he should. He is the foreman.

Q. Does the foreman know what the policy of the company is in regard to a raise?

A. They are the ones that recommend them.

Q. Did you ask whether Mr. Hedberg recommended you? Did you ask him whether he recommended you?

A. I asked Bud to recommend me for a raise.

Q. Did he tell you he did recommend you for a raise?

A. He said he didn't think he would have any influence in getting me a raise.

Q. For you individually, or others also?

A. Individually.

Q. Wasn't it a fact that when raises came through, they came through for all men?

A. Not always.

Q. Or only for individuals?

1314 A. Individuals get raises, just as well as a blanket raise.

Q. As you said before, outside of the conversation you had with Koch and Mr. Hauberg, there is no new evidence that you have been discriminated against because you are a member of the C. I. O.?

A. None whatsoever.

Mr. Engelhard: That's all.

Mr. Rissman: If the Examiner please, I move the last question and answer be stricken. The witness is not competent to testify what is evidence and what is not. He is giving the facts.

Trial Examiner Batten: Just a minute.

Mr. Rissman: I am moving the strike the last question.

Mr. Engelhard: Mr. Lamfrom talked to me, and I don't know what you said.

Mr. Rissman: I say, I move to strike the last question and answer, inasmuch as it calls for an opinion of this witness as to whether there is evidence of discrimination. He has stated the facts, and the Examiner and the Board will determine.

Trial Examiner, Batten: Read the last question and answer.

(Last question and answer read.)

1315 Mr. Engelhard: The word "evidence" is used there in the ordinary layman's sense.

Mr. Rissman: "You have no evidence."

Trial Examiner Batten: I will ask Mr. Engelhard in what sense he uses the word "evidence."

Mr. Engelhard: What I mean is this:

Q. (By Mr. Engelhard.) Have you any proof that you can produce?

Mr. Rissman: I object. He has given the proof.

Trial Examiner Batten: Just a minute. Let him finish.

Q. (By Mr. Engelhard.) You understand what I mean. Have you any proof other than your belief that you were discriminated against because you were a member of the C. I. O.?

Mr. Rissman: I object to the question. He has answered that.

Trial Examiner Batten: He has answered it once before, but I think he is probably competent to answer again.

The Witness: A. The only proof that I have is what I already told you, as to what Mr. Hedberg told me.

Q. (By Mr. Engelhard.) That is what I said, outside of what Mr. Hedberg said, and outside of what conversation you have had with Koch—well, strike that. You said to Hedberg something about a raise, "Why didn't I get a raise?", is that right?

A. I said "I have a very good reason why I didn't
1316 get a raise."

Q. Yes.

A. And he said, "C. I. O."

Q. Did he put it in the form of a question?

A. The way he said it, "It is the C. I. O." in other words, he meant that I thought I didn't get that raise because I belonged to the C. I. O.

Q. Well, that is the way you interpreted his remark, didn't you?

A. Yes.

Q. That you believed that you were not getting a raise because you were a member of the C. I. O.?

A. Because the first words that he spoke, when I told him that I had a good idea why I didn't get the raise, he said "C. I. O."

Q. And you inferred from that, that he believed that was your reason?

A. Why yes, because he had the words right at the tip of his tongue, and if that wouldn't have been in his mind at that time, I don't believe he would have said it; he would have asked me why I had that idea; but he didn't ask me why. He just said, "C. I. O."

Q. I say, that is all the proof or evidence you have of any discrimination, if there was discrimination?

A. Yes.

1317 Q. You don't know, of course, whether in fact it was discrimination?

A. No.

Q. That is what I am getting at. We understand each other on that, don't we?

A. I think we do.

Q. You say you were an apprentice?

A. I was.

Q. How long?

A. I was an apprentice for two years.

Q. Then you became a journeyman?

A. I did.

Q. Of course, your wages were increased when you became a journeyman?

A. They were.

Q. And you have had wage increases since you became journeyman?

A. I have had, I believe, three wage increases since I finished my apprenticeship.

Q. (By Mr. Lamfrom.) That is in the two years?

A. Inside of two years, that's right.

Q. (By Mr. Engelhard.) What are you getting now?

A. I am getting 80-cents an hour.

Q. Any men in your department getting less than that?

A. There is.

1318 Q. And there are men who are getting more?

A. Yes.

Q. How old are you?

A. Older?

Q. How old are you?

A. I am thirty-one.

Mr. Engelhard: That's all.

Trial Examiner Batten: Mr. Clark?

Q. (By Mr. Clark.) When you had this conversation with Mr. Koch on April 22nd, at which time you said you thought the C. I. O. was better represented for the grievances on account of the steward system, you didn't know of the set-up of an independent union at that time, did you?

A. Yes, I did.

Q. Where did you gain your information?

A. From one of the directors.

Q. You had not seen any articles of incorporation?

A. I don't believe there were any articles of incorporation at that time.

Q. If you were told that they were filed on April 19th, would that change your answer?

A. No, I don't believe it would.

Q. And there were no by-laws adopted at that time?

A. Not that I know of, no.

Q. So you knew nothing of the set-up of this organization then?

1319 A. Yes, I knew they had elected a president, and a vice-president, and a secretary, and so on, and that they had representatives throughout the whole plant.

Q. You knew that on April 22nd, did you?

A. Yes.

Q. And you knew about how this union was going to present its grievances?

A. No, I didn't know that they were going to present any grievances whatsoever.

Q. But you knew their officers had been elected?

A. Yes.

Mr. Clark: That's all.

Mr. Engelhard: Just a moment, Mr. Meindle. I presume I am allowed to go into matters that are developed by other cross-examiners?

Mr. Rissman: After me, please.

Trial Examiner Batten: I presume we will have to keep some sort of procedure here. You had better each take your turn here.

Mr. Engelhard: That is what I want to find out now, what the turn is. He finishes, and then I have a chance to go back on matters developed by Mr. Clark, or by him?

Trial Examiner Batten: By Mr. Clark.

Mr. Engelhard: All right.

1320

Redirect Examination.

Q. (By Mr. Rissman.) Mr. Meindle, when Ben Koch expressed his opinions to you about the Independent Union being a better union than the C. I. O., did that create any resentment on your part?

A. Why, yes, it did.

Q. In what way?

A. Because I believe that in any union, labor organization, or council, that the foremen or any management that would represent the plant men are no good.

Q. Did you believe it proper for the foreman to express an opinion between two labor organizations, as to which one he thought was a better one?

Mr. Engelhard: That is objected to.

The Witness: A. No, I didn't.

Mr. Engelhard: Just a minute. I object to that, as to what his belief is, as to what it was proper for the foreman to do.

Mr. Rissman: It is highly proper.

Trial Examiner Batten: What were you saying, Mr. Rissman?

Mr. Rissman: It is a highly proper question, Mr. Engel-

hard. The question of intimidation or coercion by a foreman on employees, especially where brought out, as here, that the foreman and employees are friendly, may be created by the feeling in the employees' mind. There does not necessarily have to be any hostility present.

Trial Examiner Batten: I think the Examiner is perfectly competent to take these conversations and determine what effect they may have on whether there is a friendly or unfriendly attitude, and while he may answer this question, I don't know how material it is, or what he thinks about it.

Mr. Rissman: He has already answered it.

Trial Examiner Batten: Then proceed.

Mr. Rissman: That's all.

Recross Examination.

Q. (By Mr. Engelhard.) You testified upon my cross-examination that this conversation that lasted an hour took place before the 22nd of April, is that correct?

A. It was approximately around that time. The exact date I couldn't get.

Q. Now, at the time when you and Mr. Koch had this discussion, you say at that time you knew what the set-up of the Independent was?

A. Yes. It was around the 20th,—the last week in April.

Q. Around the last week in April?

A. That would have been, either it would have been the week of the 20th, or the 23rd, or in that neighborhood.

Q. The proof in this trial so far shows that the Independent Union set-up was not determined until the 24th of 1932 April, that is when the officers were elected.

A. It was during that week. If I am not mistaken, the last day of April would have been around Monday or Tuesday, that would have been the 30th, and the week which I said I held that conversation, they still would have had a chance to draw up their by-laws, and he told that.

Q. Let us get these dates, if we can, straightened out. Did you say you got this information of a man who was an officer of the Independent?

A. I did.

Q. What was his office?

A. He was a director.

Q. Now, he couldn't have been a director before the 24th of April?

A. I don't know if he could have or not, but he could have been present at meetings and got the information.

Trial Examiner Batten: Is there any evidence here as to when they elected their officers?

Mr. Rissman: There is not.

Mr. Engelhard: That is in the record here that was introduced yesterday afternoon, April 24th.

Trial Examiner Batten: In what form was it introduced?

Mr. Engelhard: In the form of testimony from Mr. Greget, who testified that the meeting took place on the 24th of April, that at that time the directors were elected, by 1323 laws adopted, and the directors elected, the officers of the union, on the 24th of April. That is in the record.

Then the Examiner at that time asked for the introduction of the articles of incorporation and the by-laws.

Trial Examiner Batten: Now, I remember all of that, but I don't remember any testimony as to when the directors or officers were elected. That is the part I don't remember.

Mr. Rissman: And the evidence indicates that the Independent Union was incorporated on the 19th of April.

Trial Examiner Batten: You may go ahead and question him.

The Witness: If the Trial Examiner will let me, I will explain to him how I know how their officers were elected, if he cares to know.

Q. (By Mr. Engelhard.) Mr. Meindle, the thing I am trying to get at is this: It is not very definite in your mind, the time when Mr. Koch talked to you, but you say that that evening—

Trial Examiner Batten: I think it is quite definite. He said it was before this foremen's meeting at the Medford Hotel.

Mr. Engelhard: All right. Now, if that is true, if your Honor please, then it was impossible for a director of the Independent to have given him that information, because there were no directors.

1324 The Witness: I will tell you how I got that information, if you care to know.

Trial Examiner Batten: That is true; but permit the witness to make an explanation. He says he wants to explain it. Let him go ahead.

The Witness: This here fellow who is now a director, who I call the director, was running around the shop talking to the fellows, that they go up to the hall that Sunday when they

ected their directors so he could be put on the board of directors. That is how I know what their set-up was.

Q. (By Mr. Engelhard.) Was that running around that you say this man was doing before the conversation had with Mr. Koch?

A. That was all happening during that same week.

Q. Who was this director? What is his name?

A. His name was William Stickman.

Q. What did William Stickman tell you about the set-up?

A. He told me, he said he was trying to get one of the major offices, and he only got elected as a director. He was—

Q. Wait a minute. Wait a minute. Did William Stickman tell you he was elected a director before you talked to Koch?

A. That I couldn't answer, because that I don't recall.

Q. You knew, of course, that the—

1325 Trial Examiner Batten: Do you want him to finish the conversation, Mr. Engelhard, that he had with Stickman?

Mr. Engelhard: No. What I am trying to get at is only a question of time, whether Koch's conversation with him was before the meeting at the Medford.

Trial Examiner Batten: That is clear, that it was before the foremen met at the Medford Hotel. There isn't any dispute as to that.

Mr. Engelhard: It couldn't have been, if it is a fact that he knew about the Independent set-up by reason of the fact that officers had been elected, and directors had been elected.

Trial Examiner Batten: There is no evidence that I know of in the record to that effect.

The Witness: They knew what their set-up was going to be long before they held their election, because the directors and officers, if I am not mistaken, I can't say who they were on days, but at night, they were running around the shop there, soliciting votes, to have the fellows vote for them up at that meeting when they elected their directors.

Q. (By Mr. Engelhard.) The answer, of course, then is, you didn't know what the Independent Union set-up was at the time when you talked to Koch?

A. I knew what their set-up was, yes, because I was 1326 told what their set-up was going to be.

Q. You were told what it was going to be?

A. Yes.

Q. Then the answer is, you don't know what their set-up

is, unless what they said it was going to be actually was carried out into practice?

A. Surely, the fellows that were running around for nomination, they must have been told what the set-up was going to be, and what kind of board of directors they were going to have, or chairman, or vice-chairman, or treasurer, or secretary, or whatever it would be, they surely would have known that before they went out and tried to solicit votes on that matter, because if they didn't know that, they wouldn't have went out to solicit votes.

Mr. Engelhard: That's all.

Mr. Clark: I have nothing.

Redirect Examination.

Q. (By Mr. Rissman.) Bill Stickman was either a director or a candidate for the office of director when he spoke to you, is that right?

A. When he was going around soliciting votes, I believe he was trying for one of the major offices, it is above the board of directors.

Q. Have you finished your answer?

A. Yes.

1327 Mr. Rissman: That's all.

Mr. Engelhard: Just one question.

Recross Examination.

Q. (By Mr. Engelhard.) You don't know, of course, who were elected to the major offices, do you, of that corporation?

A. That I couldn't say. I never attended any of their meetings, or I never inquired from anyone how they go forth to elect their officers.

Q. Did Stickman tell you that he was soliciting votes for any office?

A. He was talking to the fellows, that when they go up there on that Sunday afternoon, to vote for him as to a major office.

Q. What major office?

A. I don't recall just what office he was running for.

Q. Did he tell you how officers were elected?

A. He didn't; and I didn't inquire.

Q. You merely assume that the officers are elected by the voters, don't you?

A. That is what I am under the impression.

Q. I mean, by the members?

A. That is what I am under the impression of.

Q. But you don't know just how officers are elected?

A. I don't know.

1328 Mr. Engelhard: For your information, they are elected by the directors.

Mr. Rissman: I move that be stricken.

Trial Examiner Batten: I think it is all right for Mr. Engelhard to volunteer that information. The charter and by-laws are here.

Mr. Engelhard: The articles of incorporation show how they are elected.

Trial Examiner Batten: And the articles of incorporation. I think it is all right to show who elected the officers.

Mr. Engelhard: It is a matter of public knowledge.

Trial Examiner: It is already in the record that the body elects the directors, and then the directors elect the officers.

Are there any further questions from this witness?

Mr. Rissman: I have none.

Trial Examiner Batten: I have one.

Examination by the Chair.

Q. (By Trial Examiner Batten.) A few moments ago, in answer to one of Mr. Engelhard's questions, you mentioned something about that you thought somebody was a stool-pigeon; and some information was carried back. Will you tell me what you meant by that?

A. Yes. There were several fellows up at our meeting, I have known the fellows for several years, never did like their attitude on anything like that, I saw them up at our meetings, and I asked one of the organizers to go up and ask them fellows if they wanted to sign up.

They didn't sign up, and they went back, they left the hall, and the next day at work Ben Koch asked me what the idea was of throwing them fellows out, for not wanting to join the union.

Q. You mean Ben Koch came up and asked you that?

A. Yes, he asked why these fellows were thrown out of the hall for not joining up with the union.

Q. What did you tell him?

A. I told him if they didn't want to join, what were they

there for. They were there for several meetings before, and they knew what was going on.

Q. What did he say?

A. He didn't have no answer to that.

Q. What are the names of the men?

A. The name of one of the men was Art Mayhew.

Q. What is the name of the other man?

A. Walter Keigrowski.

Q. How do you spell that name?

A. I can't spell it.

Trial Examiner Batten: That's all. We will adjourn until 7:00 o'clock.

(Witness excused.)

1330. (Thereupon, at 5:05 o'clock p. m., a recess was taken until 7:00 o'clock p. m. of the same day, Thursday, August 19th, 1938.)

1331 *Evening Session.*

(Whereupon, the hearing was resumed, pursuant to recess, at 7:00 o'clock p. m.)

Trial Examiner Batten: I believe we are ready to proceed.

Mr. Rissman: Mr. Neal.

WILLIAM NEAL, a witness called for and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination.

Q. (By Mr. Rissman.) Will you state your name, please?

A. William Neal.

Q. Where are you employed, Mr. Neal?

A. The Falk Corporation.

Q. How long have you been employed there?

A. A little over seven years.

Q. In what department are you now employed?

A. In the foundry.

Q. How long have you been working in the foundry?

A. Practically all the time.

Q. Are you a member of a labor organization?

A. Yes.

Q. Which one?

1332 A. The C. I. O.

Q. The Amalgamated Association of Iron, Steel and Tin Workers?

A. Yes.

MP. Lamfrom: May I ask, Mr. Rissman, the difference between the Amalgamated Steel, Iron & Tin Workers, and the S. W. O. C. something, that you have in the complaint? What is the difference?

Will you excuse the interruption?

Trial Examiner Batten: Yes.

Mr. Rissman: I don't think the complaint says anything about the S. W. O. C. It says something about the Committee for Industrial Organization.

Mr. Lamfrom: Go ahead. I will look it up.

Mr. Rissman: I will explain this for you, even if it isn't there.

Mr. Lamfrom: Yes.

Mr. Rissman: The Committee for Industrial Organization is the parent organization, consisting of a number of affiliated labor unions. One affiliate is the Amalgamated Association of Iron, Steel & Tin Workers; the S. W. O. C., I doubt if it is mentioned in the complaint—it may be—is the Steel Workers Organizing Committee appointed by the Committee for Industrial Organization.

Mr. Lamfrom: Thank you.

1333 Mr. Rissman: But the union in this case is a local of the Amalgamated Association of Iron, Steel & Tin Workers.

Q. (By Mr. Rissman.) During the time that you were employed by The Falk Corporation, and before your membership in your present labor union, were you ever a member of a labor organization?

A. Yes.

Q. Which one?

A. United Mine Workers of America.

Q. And that was during your time of employment at The Falk Corporation?

A. No.

Q. Within the last seven years?

A. I have never been a member of a labor organization.

Q. In the last seven years, while you have been employed

at Falks, with the exception of your present membership, were you ever approached to join any other labor organization?

A. No.

Q. Were you ever solicited for membership in any American Federation of Labor union?

A. No.

Q. Were you a member of the Works Council?

A. Yes.

Q. When were you elected?

1334 A. In June, 1934.

Q. What department did you represent?

A. I represented the foundry, night.

Mr. Lamfrom: What was that last?

The Witness: Foundry, night.

Q. (By Mr. Rissman.) Directing your attention to the summer of 1933, after the enactment of the N. I. R. A., when the Works Council was being organized, established, do you recall any statements to the men in your department by management employees of the company?

A. Yes.

Mr. Lamfrom: Now—well, he has answered, of course.

Q. (By Mr. Rissman.) Who do you recall speaking to the employees?

A. Victor Hydar.

Q. The gentleman who testified here the other day?

A. Yes.

Q. Do you recall what he said?

Mr. Lamfrom: That is objected to as being incompetent, irrelevant and immaterial, what the management, or what somebody representing the management, said in 1933. It has no bearing on the issues in this case.

Trial Examiner Batten: Is the purpose of this—

Mr. Rissman: I will state the purpose.

Trial Examiner Batten: Perhaps I had better ask you 1335 the purpose of it.

Mr. Rissman: The purpose of this is to indicate the attitude of management in respect to labor organizations, as part of the history or background of the company's labor policy and labor attitude.

Trial Examiner Batten: He may answer. But, Mr. Rissman, I wish that these witnesses—we have covered quite thoroughly, I think, the Works Council and the history of labor relations in this plant.

Mr. Rissman: Yes.

Trial Examiner Batten: And I would like to request that you make it very brief, and get down to the issues.

Mr. Rissman: Except that we have covered it with people, for the main part, who represent management, and they would not be able to testify as to the effect, if any, this attitude of the company had on the men. These are the workers now testifying.

Trial Examiner Batten: Of course, if the facts are brought out here, I think the Examiner can fairly well deduce it.

Mr. Rissman: I mean to bring out those facts.

Trial Examiner Batten: I would make it as brief as possible, because, as far as the Examiner is concerned, I think I have a very clear idea of the various steps in the labor history of this plant.

1336 Mr. Rissman: All right, sir.

Mr. Lamfrom: Then, I understand my objection is overruled?

Trial Examiner Batten: It is overruled for the purpose of showing the labor relations' history of the plant, for no other purpose.

Q. (By Mr. Rissman.) Do you recall the question?

A. Yes. Victor Hydar came out in the foundry, in front of the drying oven, and told the men he was going to organize a Works Council, asked the men to elect men that were working there, men from the foundry, outside of the foremen and the clerical division, asked them to vote for them, and not vote for any outsiders.

A. Can you tell us what situation existed in and around the plant that led Mr. Hydar to tell you and the other employees not to vote for outsiders?

Mr. Lamfrom: Well now, how can the witness answer that?

Mr. Rissman: Let's see.

Mr. Lamfrom: How does he know what led Mr. Hydar to do something?

Trial Examiner Batten: I don't think the question is properly worded. You may ask him what the conditions in the plant were, but whether or not those were the conditions which caused Mr. Hydar to make these remarks, I don't
1337 imagine this witness is able to say that.

Q. (By Mr. Rissman.) At about that time, the time Mr. Hydar made this statement to you and the other employees, was there any activity by American Federation of Labor organizers with reference to the Falk employees?

A. Yes.

Q. What were the activities?

A. They were calling meetings, and trying to organize the American Federation of Labor, and that.

Q. Can you tell us what unions were calling—what union or unions called these meetings?

A. No, sir.

Q. Do you recall the names of any of the labor leaders who were calling these meetings?

A. No, sir.

Mr. Lamfrom: Without the necessity of repeating my objection, will it be understood that all the testimony with reference to the labor history as being detailed by this witness of The Falk Corporation is objected to on the ground it is incompetent, irrelevant and immaterial?

Trial Examiner Batten: Yes, you may have a continuing objection.

Mr. Lamfrom: That's right.

Trial Examiner Batten: To these questions.

Mr. Lamfrom: I mean, without objecting to each.
1338 Trial Examiner Batten: Yes, without objecting, it will be understood that your objection is applicable.

Q. (By Mr. Rissman.) How long were you a member of the Works Council after you were elected in 1934?

A. About two years and nine months.

Q. Would that be the entire time that the Council existed?

A. Yes.

Mr. Lamfrom: At this time, I renew my objection to the evidence given by this witness in answer to questions which deal with the labor history of The Falk Corporation in 1933, outside of any matters connected with the formation of the Works Council, by a motion to strike the question and answers of this witness up to the present time, except those which relate, of course, to his name and occupation.

Trial Examiner Batten: The motion is denied.

Q. (By Mr. Rissman.) Were you present at the meeting of the Works Council held on April 8th, 1937?

A. Yes.

Q. Were you present during that entire meeting?

A. Yes.

Q. Did you hear any statements there by Mr. Harold Falk?

A. Yes.

Q. Will you tell us what Mr. Falk said?

Mr. Lamfrom: When was this? In 1933?

1339 Mr. Rissman: 1937.

Mr. Lamfrom: Oh, 1937?

Mr. Rissman: Yes, sir.

The Witness: A. Well, we had asked for a vacation with pay and a bonus at a former meeting, Mr. Falk came in and offered us a raise in wages to take the place of the bonus with pay.

He also said he would consider a bonus later, that is, he would give us the raise and the vacation with pay, providing there was no third party intervened.

Q (By Mr. Rissman.) Is that what he said?

A. Yes.

Q. Did anybody ask him what he meant by a third party?

A. Yes, somebody asked him what he meant by a third party.

Q. Do you recall who asked him?

A. I do not.

Q. And what did he say in response to the question?

A. Well, he said the C. I. O. and the American Federation of Labor.

Q. Did Mr. Falk at that meeting say anything with reference to the creation of an independent union?

A. Yes, he went ahead and he explained that he had been down to Cutler-Hammer and talked to the officials.

Q. Cutler-Hammer is a manufacturing company in the City of Milwaukee?

1340 A. Yes.

Q. Go ahead.

A. And he had talked to the officials down there, and they had the C. I. O. and the American Federation of Labor, both, in there, and it seems as though they were having trouble; he named a certain amount, I don't remember just what it was, that belonged to each one, he said they were having trouble, and that Cutler-Hammer were going to let it run along the way it was as long as they could.

He said if they couldn't do anything about it, they were going to dump it over in the Government's lap.

Q. And what else did Mr. Falk say in that statement of his?

A. He said he didn't understand just how they were going to dump it over in the Government's lap.

Q. Did he say anything at that time, at that meeting—

Mr. Lamfrom: I suggest that the learned counsel is just—

Mr. Rissman: Are you objecting?

Mr. Lamfrom: (Continuing.)—is just putting the answers in the mouth of the witness. He is not asking, "What did Mr. Falk say?", and what did so-and-so say, but, "Did Mr. Falk say."

Mr. Rissman: I had been asking him what he said.

Read the last question.

1341 (Last question read as follows:

"Q. Did he say anything at that time, at that meeting—")

Q. (By Mr. Rissman.) (Continuing.) —anything about the Independent Union or an independent union?

Trial Examiner Batten: I think, Mr. Rissman, if you will ask the witness to simply repeat what Mr. Falk said—

Mr. Lamfrom: He may not remember without your prompting him a little.

Trial Examiner Batten: (Continuing.) —I think he probably can testify as to what he heard.

Q. (By Mr. Rissman.) Tell us everything you heard, Mr. Falk say, at that meeting about union affairs?

A. Well, it seemed as though at that time he was leading toward an independent union, or something, to take the place of the Works Council.

Mr. Lamfrom: I move to strike the answer as not responsive.

Trial Examiner Batten: It may be stricken.

Q. (By Trial Examiner Batten.) What did he say, Mr. Neal? Just tell us what Mr. Falk said when he talked to you.

A. Well, I believe he was interrupted at that time by Stanley Adamski. Adamski asked him what he aimed for us to do.

Q. (By Mr. Rissman.) What did Mr. Falk say?

1342 A. If he aimed for us to start the Independent Union, something to take the place of the Works Council; well, Mr. Falk said he didn't believe he had anything to say about that, but he would answer the question that yes, that is what he figured on doing.

Q. Did any of the representatives say anything along those lines?

A. Well, there was quite a discussion there. I don't remember just what was said.

Q. Were any plans made at that meeting to create an independent union?

A. Mr. Falk said that he would get the information for

us, how to start an independent union, and would let us know later about it. And also—

Q. Was Mr. Hydar present during all of the time that Mr. Falk made these statements?

A. Yes.

Q. Go ahead.

A. There were also arrangements made to call a meeting later, night.

Q. Is that what Mr. Falk said?

A. No. It was suggested there, I just wouldn't say who suggested it. It was suggested that we call a meeting later.

Q. Were there any arrangements made, as to where 1343 that meeting was, to be held?

A. Yes.

Q. What were the arrangements?

A. On company property.

Q. (By Trial Examiner Batten) Where?

A. Underneath the hospital.

Q. (By Mr. Rissman) Did Mr. Falk know or hear of the arrangements to meet on the company property beneath the hospital?

A. Yes.

Q. He was there when those arrangements were made?

A. Yes.

Q. Did he participate in any way in making them?

Mr. Engelhard: I submit, this is all leading.

Mr. Rissman: All right.

Mr. Engelhard: I object to the leading questions.

Trial Examiner Batten: I think the last question is not leading, and that is, whether he made any arrangements for the meeting.

Mr. Rissman: I think I asked if he participated in the arrangements.

Trial Examiner Batten: Yes. In other words, the question is, did Mr. Falk participate in the arrangements for the meeting.

Q. (By Mr. Lamfrom) You are now speaking of Mr. 1344 Harold Falk, are you?

A. Yes, sir.

Mr. Lamfrom: I see.

The Witness: A. Mr. Harold Falk said that we could meet, that is, the Works Council and former Works Councilmen could meet to make arrangements for organizing this

Independent Union on company property; that after it was organized, we would have to meet off the property.

Q. (By Mr. Rissman) That is what Mr. Harold Falk said?

A. That is what Mr. Harold Falk said.

Q. Did you ever attend any meetings subsequent to April 8th, 1937, where an independent union was discussed?

A. No, sir.

Q. Directing your attention to April 12, 1937, did you attend a meeting on that date?

A. Yes.

Q. What kind of a meeting, and where was it held?

A. It was a meeting to form an independent union, beneath the hospital.

Q. Was Mr. Falk at that meeting?

A. Yes.

Q. Did he make any statements?

A. Well, Mr. Falk was asked down at the meeting by someone, I wouldn't say who asked him, but he came down there and was talking, said he couldn't get no information as he had promised us as to how to start this independent union, and during this conversation, John Wilfer asked him if he wouldn't put the raise that he had promised us for June 1st ahead a month, that it would keep a lot of the men from joining the C. I. O. or an outside organization. O

Q. Did you hear John Wilfer make that statement?

A. Yes.

Q. Are you sure he stated it as you have stated it now?

A. Yes.

Q. And did he use the word or mention the name "C. I. O."?

A. Yes.

Q. What did Mr. Falk say?

A. Mr. Falk said there would be no argument, that if that that is the way the men felt about it, that they could count on the raise.

Q. When did you first learn that there was going to be a meeting on April 12th?

A. I believe on Friday, April 9th.

Q. From whom did you learn it?

A. Stanley Adamski.

Q. He is the man that testified here before?

A. Yes.

Q. Were there any other meetings held by this same group who met on April 12th, after April 12th?

A. Yes.

1346 Q. Where you were present?

A. Yes.

Q. When was the next meeting?

A. April 13th.

Q. Where was that held?

A. Underneath the hospital.

Q. During working hours?

A. Yes.

Q. And what discussion took place there?

A. Well, we sent down underneath the hospital, and we waited for Mr. Falk, he had promised to bring us information as to how to start this independent union.

Q. Mr. Harold Falk?

A. Mr. Harold Falk.

And someone called at the office for him, and he wasn't there, and Richard Falk came down in his place.

Q. Richard Falk?

A. Yes.

Q. The son of Harold Falk?

A. Yes.

Q. Go ahead. Did he say anything?

A. Richard Falk stated that we would have to incorporate, that it would cost \$5.00 to incorporate, and it would take three men to sign the papers.

Q. Did Mr. Falk give any other advice?

1347 A. Not that I remember.

Q. What else occurred at that meeting of April 13th?

A. Well, the meeting was adjourned, and some of the night men went home. I went out in the foundry, and talked to Stanley Adamski. Stanley Adamski and myself went over in the machine shop and talked to John Wolf.

During the time we was over talking to Wolf, Harold Falk came in.

Q. Did he say anything?

A. He told us that he had found out we would have to incorporate, practically the same thing that Richard Falk had told us before, and he advised us to call another meeting.

Q. Did he state why you should call another meeting?

Mr. Lamfrom: Let him state what he said.

The Witness: A. Well, to get the men together, to get this thing going as quick as we could.

Q. (By Mr. Rissman) Was another meeting called?

A. Yes.

Q. When?

A. That same afternoon.

Q. Who was present at this same meeting?

A. Practically all the fellows that had been present at the first meeting; one or two of the night men had went on home.

1348 Q. Was that held under the hospital?

A. Yes.

Q. What took place at that meeting?

A. Well, Mr. Falk explained what he had found out.

Q. Mr. Harold Falk?

A. Mr. Harold Falk.

Q. Just tell us what he said, if you can.

A. Well, he said we would have to incorporate, and that we would have to do it as quick as possible, because the C. I. O. were working in the plant.

Q. Can you tell us what was done, if anything, at that meeting in pursuit of this organization?

A. Yes. I believe there was a collection taken up among the men that were there of \$1.00 apiece, to pay a lawyer, to pay the lawyer's fees, and to have affidavits made out, and there was a committee appointed to get a lawyer.

Q. Who was appointed on that committee?

A. Les Greget, Stanley Adamski, and John Mitchka.

Q. Was there any discussion at that meeting with reference to who would be a good lawyer to choose?

A. Yes.

Q. Did you have any names suggested?

A. I heard Padway's name suggested, and I heard Clint McCarthy's name.

Q. Those are the only two you heard?

1349 A. Those are the only two I remember.

Q. (By Mr. Lamfrom) Who was the second one?

A. Clint McCarthy.

Mr. Rissman: Do you know him?

Mr. Lamfrom: Never heard of him.

Q. (By Mr. Engelhard) Let me see if I got it. You say Clint?

A. Clinton McCarthy.

Q. Clinton?

A. Clinton McMarthy.

Trial Examiner Batten: Mr. Rissman, I asked Mr. Falk come down here, because I had only one question I would like to ask him. Would you like to get away, Mr. Falk?

Mr. Harold Falk: No. I would just as soon stay.

Mr. Rissman: If you want to break in, it is all right.

Mr. Falk: I will stay.

Trial Examiner Batten: There is only one question. However, in case you want to remain, we will defer it.

Mr. Falk: No, I will be glad to stay.

Q. (By Mr. Rissman) Who appointed this committee of three?

A. The men that were at the meeting.

Q. Were they appointed by a chairman? Or, just tell us how it was appointed.

A. I believe they were appointed by chairman.

350 Q. By whom?

A. By chairman.

Q. John Wolf?

A. John Wolf.

Q. Were there any suggestions at that meeting that the committee should consult Mr. Falk about an attorney?

A. Yes.

Q. Who made that suggestion, if you know?

A. I believe John Wolf made the suggestion at that time.

Q. Did he mention it before or after there was a discussion of attorneys, do you know?

A. After.

Q. Afterwards. Were there any objections by anybody present as to the committee's going to see Mr. Falk about an attorney?

A. No.

Q. And have you ever had any foreman or superintendents at the plant speak to you with reference to labor organizations?

A. Yes.

Q. Can you tell us who, and the approximate time?

A. Arthur Kane spoke to me once, and Ham C. Buuck.

Mr. Engelhard: I wish you would talk a little louder. I didn't that that last name.

The Witness: Buuck.

351 Q. (By Mr. Rissman) When did Buuck speak to you?

A. On April 23rd.

Q. Where was it?

A. On the east end of the foundry, the large foundry.

Q. Is that where you work?

A. That is where I worked at the time.

Q. Were you working at that time?

A. Yes.

Q. At that place?

A. Yes.

Q. Was it during working hours?

A. Yes.

Q. What did Buuck say to you on April 23rd?

A. Well, it had been spread around the plaint that the Independent Union was going to hold a meeting April 24th, and that we wouldn't work. I asked Mr. Buuck if we would work.

At that time, Mr. Buuck gets mad and says, "I don't have to recognize you."

I said, "I didn't ask you to recognize me."

Q. What else was said?

A. He said—he studied a few minutes and says, "No," he said, "we are not going to work tomorrow." He said, "We are not going to work Sunday, either."

Q. Was April 23rd on a Friday?

1352 It was on April 23rd, Friday, yes, the day before that.

Q. What other conversation took place between you and Mr. Buuck?

A. And Mr. Buuck went ahead and says, "Louis Meindle, Steve Fodi and yourself, I just feel sorry for you."

Q. Louis Meindle is the man who testified here earlier?

A. Yes.

Q. Who is Steve Fodi?

A. He is a steward from the foundry.

Q. A member of your union?

A. Yes.

Q. Did Mr. Buuck explain what he meant by that?

A. He didn't explain what he meant by it, no.

Q. Did you ask him what he meant by it?

A. No.

Q. Did you understand what he meant by it?

A. I took it to mean that he had heard I was made a steward of Lodge 1528 of the C. I. O., and it was to his dislike.

Mr. Engelhard: Now your Honor, I move that be stricken. That is not proper testimony.

Mr. Rissman: I think it is proper for the witness to indicate what his reaction was to the statement by the superintendent that it will be too bad for him and some others.

Mr. Lamfrom: Suppose the superintendent chuckled 1353 when he passed by this fellow, and he took that to mean that he was disdainful of him because he belonged to the union, would that be proper evidence?

Mr. Rissman: Are you making argument on the objection?

Mr. Lamfrom: Yes.

Trial Examiner Batten: I think the question, the way it is worded, is improper, and I will permit the answer to be stricken. I think it is proper to inquire what position these three men occupied.

If you want to show any facts surrounding this incident, all right, but I don't think it is proper for this witness to put any interpretation upon somebody else's statement.

Q. (By Mr. Rissman) Did Mr. Buuck ever make any such statements to you before this time?

A. No.

Q. Were you engaged in any activities other than your union activities in and around the plant that would warrant such a statement from Mr. Buuck?

A. No.

Mr. Lamfrom: Just a minute. This calls for a pure conclusion on the part of the witness. Has he done anything, or indulged in any conduct which he thinks would warrant such a statement from Mr. Buuck. How can he testify as 1354 to that with any probative force?

Mr. Rissman: I think he can very well testify.

Mr. Lamfrom: With any probative force?

Trial Examiner Batten: I will permit the question and answer to stand. I don't think it has any particular value. I think Mr. Rissman, the thing to show by this witness is any surrounding circumstances, not what he thinks about it. I mean, it is hard for somebody else to put an interpretation upon somebody else's statement. There are too many motives. I mean, the human mind is such.

Mr. Rissman: If the Examiner please, the matter of intimidation, of intimidating statements by a superior to an employee I think is highly material, the effect of those statements upon the employee, and I think the employee should be.

able to testify and state what effect that statement had upon him, if he knows.

Trial Examiner Batten: I don't think he has been asked what effect that statement had upon him. I don't recall any question involving any effect upon this witness.

Q. (By Mr. Rissman) Will you tell us, Mr. Neal, if this statement of Mr. Buuck's had any effect upon you?

A. Yes.

Q. What was the effect?

A. Well, I learned to be more careful about speaking to Mr. Buuck, I was afraid that I might get in trouble 1355 with him.

Q. What effect did this statement have on you with reference to your feeling of security in connection with your labor activities?

Mr. Lamfrom: That is objected to as purely leading. He just testified to the effect this statement had on him, now you are adding to it the suggestion, and almost putting the words in his mouth, as to what effect it had on him.

Trial Examiner Batten: Will you read the question, please?

(Question read by the reporter.)

Trial Examiner Batten: I don't know as there is any evidence here that he had any labor activities.

Mr. Rissman: He testified he was steward of the union. He has testified that he is a member of the union.

Mr. Lamfrom: Thus far those are not activities, those are statutes.

Trial Examiner Batten: Do you mean by that question, the security—I don't know as I quite understand the question. You mean as to whether or not the witness might feel that he could go ahead with his labor activities? Is that what you mean?

Will you read the question once more?

(Question reread by the reporter.)

Mr. Rissman: And future union activities.

1356 Trial Examiner Batten: What you mean by the question is whether or not this witness, as the result of this statement, felt he was at liberty to continue with his labor activities?

Mr. Rissman: I want from this witness the testimony—

Mr. Lamfrom: Now, that is just a little bit too far, what you want from the witness.

Mr. Rissman: (Continuing)—as to what effect this statement of the foreman had upon him in connection with his being a member, a steward of the union, and whether or not in his mind the statement implied that he should not be active on behalf of the union.

Mr. Lamfrom: Sure, that's what you want, but so far you have been unable to get it without telling him to say it.

Trial Examiner Batten: Wasn't the question I asked you a moment ago exactly the information you wanted to know? I mean, the form of my question would give you that information.

Mr. Rissman: He may answer that question?

Trial Examiner Batten: Read what I said back there.

(Record read as follows:

"What you mean by that question is whether or not this witness, as the result of this statement, felt he was at liberty to continue with his labor activities?")

1357 Trial Examiner Batten: Isn't that your question?

Mr. Rissman: Yes, that is part of it.

Mr. Lamfrom: Not quite. Well, go ahead.

Mr. Rissman: He may answer?

Trial Examiner Batten: Will you answer that question?

The Witness: A. State that question again.

Trial Examiner Batten: Read the question to him.

The Reporter: Shall I change it to second person, instead of third?

Trial Examiner Batten: Yes.

(Question read as follows:

"Q. Whether or not you, as a result of this statement, felt you were at liberty to continue with your labor activities.")

The Witness: A. Labor activities?

Q. (By Mr. Rissman) Yes.

A. No, I didn't.

Q. Why not?

A. Well, I didn't know; I might get fired at any time.

Mr. Rissman: Mr. Reporter, will you read the answer, please?

(Answer read by the reporter.)

Q. (By Mr. Rissman) Did Mr. Buuck know at that time that you were a member of the union?

A. I think he did.

1358 Q. Did you wear your button around the plant?

A. At that time, we had no buttons.

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Q. Had you ever spoken to him about your membership in the union, or had he ever spoken to you about it?

A. No.

Q. Prior to that time, or at that time, did you do anything to incur the displeasure of Mr. Buuck, your foreman?

A. Yes.

Q. What did you do?

A. Well, I refused to carry these application cards around for the company union.

Q. What else did you do?

A. I guess that's about all.

Q. Did you do anything else, either in the course of your work, or personally, to Mr. Buuck, to incur his displeasure?

A. No.

Mr. Lamfrom: I don't understand who was the person who carried around the application cards for the company union, as you express it.

Mr. Rissman: He said Independent Union.

Mr. Lamfrom: Who was that?

The Witness: I said I refused to carry them.

Q. (By Mr. Lamfrom) Oh, you refused to carry them?

A. Yes.

Q. (By Mr. Rissman) Had he asked you to?

1359 A. He asked me what I was doing about it.

Q. When did he ask you that?

Mr. Engelhard: Just a minute. I object to this form of questioning. Why don't you ask him what Mr. Buuck said, and not his conclusions, as to the interpretation he placed upon the statement?

Q. (By Mr. Rissman) When did Mr. Buuck ask you that?

A. April 16th, I believe the day the application blanks came down.

Q. And what did you say to him when he asked you that?

A. I told him I would do nothing about the formation of that union, and the application blanks.

Q. You are referring now to the Independent Union?

A. Yes, to the company union.

Q. You have testified that Arthur Kane has had conversation with you about union matters. Will you tell us when that conversation was, and what was said?

A. I believe on May 6th, Arthur Kane came to me and told me they were going to dock me for the time I had spent at these meetings for this Independent Union.

Q. And what did you say?

A. I asked him—he told me they were going to dock me ten hours and a half. I asked him who he got the orders from to dock me ten hours and a half. He just said he got the orders from Mr. Harold Falk. I asked him how come 1360 Mr. Falk was docking us for it.

“Well,” he said, “it is Meyer Adelman.”

It seemed as though he gave those orders down at the meeting at the Eagles’ Club.

He said, “It seemed as though that Jew has an awful lot to say around here.”

Q. He referred to Meyer Adelman?

A. Yes.

Q. Did you have any other conversation with Mr. Kane on that day, on that occasion?

A. Only I asked him for a list of the hours I had worked during the first part of April and the last part, so I could check up how many hours I had put in.

Q. How many hours, pay were you docked from your wages?

A. Ten hours and a half; so he explained. I never could figure it out, according to the way they filled out the check.

Q. (By Trial Examiner Batten) Did you ever make a report to anybody of the amount of time you had spent in these meetings?

A. Well, we punched a blue card every time when we came into the meeting, and turned in the amount of hours that night to the time keeper.

Q. (By Mr. Rissman) There was a separate time card for these meetings?

1361 A. A separate blue card, yes.

Q. Will you tell us what your occupation in the foundry is, Mr. Neal?

A. Well, I am truck driver and handyman around there.

Q. And that work of yours, your work takes you to various parts of the foundry?

A. Yes.

Q. So you don’t have one punch, or one machine, like other men might have?

A. No.

Q. Did you ever have any other conversation with foremen or supervisory officials of the Falk Company regarding these same matters?

A. No.

Q. Were you present on May 5, 1937, at the Eagles' Club, at the meeting attended there by representatives of the company and representatives of the union?

A. Yes.

Q. And you saw a transcript taken of the testimony there?

A. Yes.

Q. Did you hear Mr. Meindle's testimony with reference to the people who attended?

A. Yes.

Q. Do you know of any persons in addition to those whom he named who were at that meeting? Did you notice that he missed any names, that you could think of?

A. Well, he missed Joe Jelly, he missed Richard Falk, I believe.

Q. Who is the first person you mentioned?

A. Mr. Harold Falk?

Q. No.

A. Joe Jelly.

Q. Who was he representing, the union or the company?

A. He was representing the company union.

Q. He was one of the men who later had to leave the room?

A. Yes.

Mr. Rissman: That's all.

Cross-Examination.

Q. (By Mr. Engelhard) Mr. Neal, when did you become a member of the C. I. O.?

A. About the 11th or 12th of April, I don't remember just the day.

Q. Well, did you become a member of the C. I. O. on the day this meeting was held in the basement of the hospital?

A. No, I believe it was the 11th of April.

Q. It was the day before, wasn't it? What's that?

A. I believe it was the 11th of April.

Q. That was a Sunday, wasn't it?

A. Yes.

Q. That was the day the charter was granted to your union, according to Mr. Meindle's testimony this afternoon? I am just trying to fix the date in your mind. You joined it at that Sunday meeting?

A. Yes.

Q. And thereafter, the next day, you say you attended this meeting of the 12th?

A. Yes.

Q. You were then a member of the C. I. O.?

A. Yes.

Q. And you say you attended that meeting of the 13th?

A. Yes.

Q. Two meetings on the 13th?

A. Yes.

Q. Did you attend any other meetings thereafter?

A. I attended a meeting on the 14th.

Q. Where was the meeting of the 14th held?

A. Beneath the hospital.

Q. That is on Wednesday of that week?

A. Yes.

Q. Who was at that meeting?

A. Well, there was Robert Gillett, Frank Russetti and myself went down there expecting to meet at 12:30, and when we got there we had to wait there maybe two hours before these fellows came back from the lawyer with the information they had.

1364 Q. That was on the 14th, now, you are certain about that?

A. I wouldn't say, I wouldn't swear it was exactly on the 14th, but it was the last meeting I was to.

Q. Well now, let's get back again. You attended a meeting on the 12th?

A. Yes.

Q. There was one meeting that day?

A. One meeting.

Q. In the basement of the hospital?

A. Yes.

Q. That is correct?

A. Yes.

Q. And you had a meeting—two meetings on Tuesday, the 13th, according to your testimony?

A. I believe so.

Q. Is that correct?

A. I believe so.

Q. What was that?

A. I believe so.

Q. And when were they held, morning or afternoon?

A. Afternoon.

Q. Both in the afternoon?

A. Yes.

Q. Then you say there was another meeting on the 14th?

A. Yes.

1365 Q. I am asking you who was present at the meeting of the 14th.

A. Well, all the members of the Works Council, former members of the Works Council, and some other men that had been called in.

Q. Was Mr. Falk there?

A. No.

Q. There is no doubt then in your mind that you attended four meetings?

A. Yes.

Q. No doubt at all?

A. No.

Q. You have the distinct recollection now of attending four distinct meetings on the 12th, the 13th and the 14th?

A. I think so.

Q. Of April. And you have a distinct recollection that Mr. Falk was present at each of those meetings except the one of the 14th?

A. Yes—not at the first meeting of the 13th, he wasn't at that meeting.

Q. Oh, he wasn't at that meeting. But you say he was at the second meeting on the 13th?

A. He was at the second meeting.

Q. That was when on that day, at what time?

A. Approximately 3:30 or a quarter to 4:00.

1366 Q. That is when it started?

A. Well, it started about 3:30, I imagine.

Q. When did the first meeting start?

A. 12:30.

Q. And you stayed in continuous session from 12:30 to what time?

A. Oh, maybe 3:00 o'clock, or a quarter after 3:00, something like that.

Q. When did the second meeting start?

A. About 3:30 or twenty minutes of 4:00.

Q. And when did that end?

A. Around 4:30.

Q. And when did the meeting of April 14th start?

A. 12:30, that is when we got there.

Q. Yes. And when was that meeting on the 14th over?

A. In the neighborhood of 4:30.

Q. Who was chairman of the meeting on the 14th?

A. John Wolf.

Q. Who was chairman of the first meeting on the 13th?

A. I believe John Wolf.

Q. And who was chairman of the second meeting on the 13th?

A. I believe John Wolf.

Q. And who was chairman of the first meeting on April 12th?

A. John Brever.

1367 Q. Did you chip in a dollar?

A. Yes.

Q. In spite of the fact that you already were a member of the C. I. O.?

A. Yes.

Q. You chipped in a dollar?

A. Yes.

Q. What was the purpose of chipping in this dollar?

A. At that time, I thought maybe we could get an organization that was not controlled by the company.

Q. At what time, with reference to these four meetings that you have testified about did you ship in your dollar? Was that during the first meeting, or at the last?

A. I believe it was the meeting of the 13th, the second one.

Q. It was the meeting of the 13th?

A. Yes, the second meeting.

Q. The second meeting. Then up to the time you chipped in your dollar, you didn't think that the union that was being organized, that you say was being organized then, was a company-controlled union?

A. Well, I thought maybe we might get the men to leave the company out of it, and go ahead and join the union, get an independent union.

Q. And you still took part in the meeting of the 14th, 1368 as you say?

A. Yes.

Q. At that time, you were not wearing your C. I. O. button, were you?

A. We had no button.

Q. When did you start wearing the C. I. O. button?

A. Sometime in May.

Q. In May?

A. Yes.

Q. No one ever objected to you wearing that button?

A. No.

Q. You still wear it?

A. Yes.

Q. You did so fearlessly?

A. No.

Q. Well, all right. What do you mean, if you say you didn't wear it fearlessly?

A. Well, I found out the law would protect us in our union activities.

Q. (By Mr. Lamfrom) You mean you didn't have any fear in wearing it?

A. I told him I didn't have any fear.

Q. (By Mr. Engelhard) That is what I asked you before, whether you wore that fearlessly, and you said "no." Now, you say you did wear it without fear.

1369 Mr. Lamfrom: That is when he meant.

Mr. Engelhard: Yes.

Q. (By Mr. Engelhard) That is correct, Mr. Neal, isn't it?

A. Yes.

Q. You were not afraid to wear your C. I. O. button?

A. No.

Q. You were not afraid to engage in any of your duties as a member of the union?

A. Not at that time, not in May.

Q. What was that?

A. Not in May.

Q. Not in May. You were not afraid to engage in any of your duties as a steward?

A. No, not in May.

Q. Not in May. When did you become afraid to engage in any of your duties as a member of the union?

A. It was explained to me during the month of April that the law would protect us.

Q. Yes.

A. And from that time on, I lost some of that fear.

Q. Well, you never had any fear after you joined the C. I. O., did you?

A. Well, probably for the month of April I did.

Q. Fear of what?

A. Well, I didn't know but what I might lose my job.

1370 Q. Did anybody ever say to you that you would lose your job for going into the C. I. O.?

A. Ham Buuck just said he felt sorry for me.

Mr. Engelhard: I move to strike that out.

Mr. Rissman: That is entirely responsive.

Mr. Engelhard: I move the answer be stricken.

Trial Examiner Batten: I think the question was whether anybody had said to him that he would lose his job. I think that answer is responsive.

Mr. Engelhard: May I ask that the question be read?

Trial Examiner Batten: Read the question.

(Question read by the reporter.)

Mr. Engelhard: It seems to me there is a simple question to be answered, whether anybody ever said to him that he would lose his job for going into the C. I. O. I think it is simple.

Read the answer, please.

(Answer read by the reporter.)

Mr. Rissman: I think that is responsive.

Mr. Lamfrom: That is not an answer to that question.

Mr. Engelhard: It is not an answer to the question.

Mr. Rissman: I think it is the proper answer.

Q. (By Trial Examiner Batten) Did anyone ever tell you specifically that you would lose your job as the result of being a member of the C. I. O.?

1371 A. No.

Trial Examiner Batten: I think that answers it.

Mr. Engelhard: That is the answer I intended to get, that is, if it were the truth, which I assume now.

Trial Examiner Batten: I think we will recess for five minutes.

Have you any objection to recessing at this time?

Mr. Engelhard: You mean I?

Trial Examiner Batten: Yes.

Mr. Engelhard: No.

Trial Examiner Batten: It is about halfway between beginning and ending, I assume.

(A short recess was thereupon taken.)

Trial Examiner Batten: You may proceed, gentlemen.

(Record read by the reporter.)

Q. (By Mr. Engelhard) Now, Mr. Neal, the conversation that you had with Mr. Buuck,—is that his name?

A. Buuck.

Q. Buuck?

A. Buuck, that's it.

Q. That did not cause you to change your affiliation, did it?

A. To change my affiliation? What do you mean?

Q. With the C. I. O.

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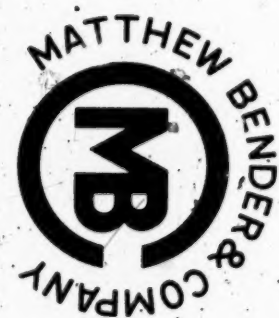
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A. No.

1372 Q. It didn't interfere with your freedom to choose any labor organization you wished to belong to?

A. It didn't me, no.

Q. It didn't interfere with your freedom to choose a collective bargaining agency?

A. No.

Q. It didn't interfere with your freedom in any manner whatsoever, did it?

A. Well, after that, I was careful not to speak to Mr. Buuck for some time.

Q. You have spoken to him, however, since then, haven't you?

A. Yes.

Q. It didn't interfere in any way with any of your rights under the law as a member of the C. I. O., did it?

A. I don't believe it interfered with my rights any, no.

Q. The conversation that you had with him was a private conversation between you and him?

A. Yes.

Q. What he said to you wasn't overheard by anyone else?

A. No.

Q. And the conversation you had with Mr. Kane, was that a private conversation, too?

A. Yes.

Q. It didn't interfere with anyone else?

1373 A. No.

Q. Did Mr. Kane's conversation in any way influence you with regard to your loyalty to the C. I. O.?

A. No, not at that time.

Q. What was that?

A. No, not at that time.

Q. Well, did it ever influence your loyalty to the C. I. O. since that time?

A. No.

Q. That didn't interfere with your freedom of choice to belong to any labor union you pleased?

A. No.

Q. It didn't coerce you to do anything?

A. No, not me.

Q. It didn't intimidate you to do anything?

A. No.

Q. You pursued the same course that you had pursued before so far as your affiliation with the C. I. O. was concerned?

A. Yes.

Q. You didn't in any way attempt to conceal from anyone the fact that you were a member of the C. I. O.?

A. I never did, no.

Q. In response to a question put to you by the Board Counsel you stated that you thought Buuck knew you were a member of the C. I. O.?

1374 A. Yes.

Q. You wore a button, didn't you.

A. We had no buttons at that time.

Q. When did you have the conversation with Buuck?

A. On April 23rd.

Q. And at that time, of course, you had no button?

A. No.

Q. Well, you don't know at this time, do you, whether Buuck knew that you were a member of the C. I. O. on April 23rd?

A. Well, everybody around the foundry, I figured, knew I was a member of the C. I. O., that I was a steward.

Q. That you were a steward?

A. Yes.

Q. But you don't know whether or not Buuck knew it?

A. Well, I am pretty sure he did. There is very little he don't know.

Q. What's that?

A. There is very little he don't know, that is known around the foundry as well as that was.

Q. Well, you didn't tell him?

A. I didn't tell him myself, no.

Q. And he didn't ask you?

A. He didn't.

Q. Whether you were a member of the C. I. O. You stated something about refusing to carry around application blanks?

1375 A. Yes.

Q. You say that occurred on April 16th?

A. Yes.

Q. Did you have application blanks?

A. No. I was asked by Stanley Adamski to go to Mr. Bryce's office and get them in the evening when I came to work, he told me to go over before Bryce closed the office and went home.

Q. And you didn't do that?

A. I didn't do that.

Q. You say he talked to you about that?

A. Later on in the night he came around and asked me what I was going to do if I got my application card, and why I didn't get it.

Q. What did you say?

A. I told him I would have nothing more to do with it.

Q. Then what did he say?

A. He didn't say anything. He just refused to speak to me then for maybe three weeks, unless he just had to speak to me.

Q. You don't know why he didn't talk to you for about three weeks?

A. I don't.

Q. Did he have any occasion to speak to you during those next three weeks?

1376 A. He always did speak to me when he passed me, gave orders.

Q. Didn't he give you any orders?

A. He didn't.

Q. During the three weeks?

A. He didn't.

Q. Who gave you the orders?

A. The other foremen.

Q. Was he on the job?

A. Yes.

Q. Is Kane your foreman?

A. Yes.

Q. He told you that you were going to be docked ten and a half hours?

A. Yes.

Q. Did you make a protest?

A. I asked him who gave orders to that effect.

Q. I didn't ask you that. I said, did you protest at being docked.

Mr. Rissman: I object. He can state what he said. He doesn't know whether he protested or not.

Trial Examiner Batten: The question is, whether he protested. Now, he states whether or not he made a protest.

Mr. Rissman: A protest or objection might be all the same. Let him state what he said.

1377 Mr. Lamfrom: The shoe is on the other foot as to conclusions now, you see, only this is cross-examination.

Mr. Rissman: That's right.

Q. (By Trial Examiner Batten) Did you protest to Mr. Kane about the deduction?

A. Yes.

Q. What did you say?

A. I asked him who gave him orders, and he said Mr. Harold Falk issued the orders. He said that he believed that Mr. Falk would be willing to pay it, but it seemed as though this Adelman, this Jew, had given orders that he wasn't allowed to pay them, pay for those meetings.

Q. (By Mr. Engelhard) I am asking you now whether or not you said anything further about not being willing to have this money deducted.

A. Not that I remember of.

Q. You accepted the deduction, didn't you?

A. Yes, there was no other choice.

Q. Why do you say that?

A. Well, I had nobody—I had no way of collecting it.

Q. You say that you punched out a blue card whenever you went to these meetings?

A. Yes.

Q. And punched the blue card when you came back from the meeting?

1378 A. I punched a blue card when I came down. I worked nights. When I came in to go to the meeting, I punched the card, and marked it; and when I left, I punched the card again.

Q. You punched it when you went to work?

A. To the meeting.

Q. Your blue card, isn't that your regular employment card, your time card?

A. No.

Q. What color was your regular time card?

A. It was yellow.

Q. And so, when you went to a meeting, you punched out on a blue card?

A. And punched in.

Q. And when you came back from the meeting, you punched in on the blue card?

A. Yes.

Q. Then did you again punch your yellow card?

A. No, not for the meetings.

Q. Well, would your yellow card show how many hours you were at work?

A. Yes.

Q. You punched when you went to work on your yellow card?

A. Yes, when I went to work.

Q. Did you punch out on your yellow card when you went to a meeting?

1379 A. No, not when I went to a meeting.

Q. And you punched the yellow card then at the close of the work day?

A. Yes.

Q. So that the yellow card would show that you worked from the time you punched in until the time you punched out?

A. It would also show the hours I spent at the meeting.

Q. How would the yellow card show that?

A. Well, the timekeeper would mark the hours on there.

Q. From what?

A. From the blue card.

Q. You are a night man, aren't you?

A. Yes.

Q. What hours do you work at night?

A. From 5:30 at night until 5:00 o'clock the next morning.

Q. Did you ever attend any of these meetings during your working hours?

A. No.

Q. Did you get a check for the time that you attended the meetings?

A. Yes, that was all the same check.

Q. A separate check?

A. It was all the same check that I got paid for it.

1380 Q. That is, you say then you got the check for the number of hours your worked, that would be shown on the yellow card?

A. Yes.

Q. And it also showed on the blue card the number of hours you attended meetings?

A. Yes.

Q. And those two time cards would be added together?

A. Yes.

Q. That is the amount of time?

A. Yes.

Q. And you received a check for the total amount of the yellow and the blue cards?

A. Yes.

Q. Is that correct?

A. On one check.

Q. Then you were given a deduction later on?

A. The next pay I was deducted, that would be May 7th, I got the check where it was deducted.

Q. Now, you testified that as early as April 8th, 1937, at the last meeting of the Works Council, a discussion was had regarding the formation of an independent union?

A. Yes.

Q. And you testified that at that meeting Mr. Falk talked about an independent union?

A. He talked about something to take the place of the 1381 Works Council.

Q. And just what did he say about the something to take the place of the Works Council?

A. Well, Stanley Adamski asked him if he meant to form an independent union, and he said yes, that he believed he did.

Q. Mr. Falk, in answer to Mr. Adamski's question, said that he, Mr. Falk, intended to organize an independent union?

A. He didn't say he did. He said he aimed for the men to.

Q. What's that?

A. He didn't exactly say he did. He said he aimed for the men to. That was the intention.

Q. Did Mr. Falk say that he aimed for the men to form an independent union?

A. Well, he answered Adamski's question with "yes", when Adamski asked him if he intended for us to organize an independent union to take the place of the Works Council.

Q. What did Mr. Falk say about the organization of an independent union?

A. Well, he said it was against the law he believed, for him to say anything.

Q. What was the question that was put to him?

A. Mr. Adamski asked him if he—if it was his intention for us to form some kind of an organization to take the place of the Works Council. Mr. Falk said yes, he believed 1382 it was, if he was permitted to say that.

Q. Was there anything else said about an independent union at that meeting?

A. Well, they went ahead and made arrangements.

Q. Just a minute. I can't hear you. Talk a little louder.

A. We asked Mr. Falk if it would be all right to hold a meeting on the company property.

Q. That was the meeting of the 8th?

A. Yes.

Q. Who asked him if it would be all right?

A. I don't remember.

Q. What's that?

A. I don't remember just who asked him that question.

Q. But you say that that question was asked by somebody of Mr. Falk?

A. Yes.

Q. Whether it would be all right for the men to hold that meeting on company property?

A. For the members of the Works Council, and former members of the Works Council.

Q. What did Mr. Falk say to that question?

A. He said he believed it would, he didn't see any—he didn't know that there was anything in the law that would forbid them to hold those meetings to make arrangements for that on company property, but after it was organized, 1383 they would have to hold their meetings outside.

Q. Mr. Falk said that?

A. Yes.

Q. Who would have to hold their meetings on the outside?

A. The organization that was formed to take the place of the Works Council.

Q. Was there anything else said at the meeting on the 8th about an independent union?

A. Well, they discussed it. Mr. Falk said—

Q. Just tell me what was said.

A. Mr. Falk said that he would try to get the information as to how it can be done, how it could be done.

Q. Mr. Harold Falk said that?

A. Yes.

Q. From whom did he say he would get the information?

A. He didn't tell us.

Q. But he said he would get the information as to what could be done?

A. As to how we could form some kind of an organization to take the place of the Works Council.

Q. Was anything further said?

A. Well, it was suggested just when that meeting should be, and Mr. Falk didn't know just when it would be he could get the information.

Q. Who asked Mr. Falk as to when the meeting should be?

1384 A. Well, I don't know as anybody asked Mr. Falk when it would be.

Q. Did he volunteer the matter of when the meeting should be held?

A. They asked him if they could hold a meeting.

Q. We have already covered that. I am asking you what Mr. Falk said with regard to the time of the meeting.

A. Mr. Falk had nothing to do with the time of the meeting at that time.

Q. Who discussed the time of the meeting?

A. Well, it was discussed among the men.

Q. While Mr. Falk was there?

A. Yes.

Q. Did he have anything to say about the time of the meeting?

A. He didn't at that meeting.

Q. Did he at any meeting?

A. No, not only at the second meeting of the 13th, when he suggested that we call a meeting again.

Q. I am speaking of this meeting of the Works Council of April 8th, and this questioning that I have been indulging in was with regard to the meeting of April 8th, the last meeting of the Works Council.

A. Yes, I understand that.

Q. You understood that, did you?

1385 A. I understand that.

A. Yes.

A. But you asked me if he had anything to say about the time any meeting was called, or something to that effect.

Q. Yes.

A. And there was more than one meeting.

Q. Did he have anything to say about the time of the meeting that was held on the 12th of April?

A. No, he didn't have anything to say about it at that meeting.

Q. Who called that meeting?

A. I was notified by Stanley Adamski.

Q. By word of mouth?

A. By the mouth, yes.

Q. What did he tell you?

A. He told me on Friday the 9th that they had decided to have a meeting Monday at 12:30.

Q. Did he tell you who decided it?

A. He did not.

Q. You had a meeting on the 12th, you say, at which you were present?

A. Yes.

Q. And who from The Falk Corporation attended that meeting on the 12th?

A. Mr. Harold Falk.

1386 Q. Was he the only officer of the corporation?

A. He was the only officer of the corporation that I remember.

Q. You don't remember anyone being there except Mr. Harold Falk?

A. Not of the corporation.

Q. How long was he at that meeting on the 12th?

A. Oh, probably ten or fifteen minutes.

Q. At the beginning, or at the end, of the meeting?

A. Well, towards the end of the meeting.

Q. What did he say at that meeting, did you say?

A. Well, he came in and said he didn't have no information, he couldn't get the information he wanted concerning the forming of this organization.

Q. Do you know how he happened to come to that meeting?

A. Yes. I believe the members of the meeting called him in.

Q. What's that?

A. I believe the members of the meeting asked him in there.

Q. Well, who of the members went to call him?

A. Well, I don't remember just who went.

Q. Mr. John Brever was the chairman of that meeting?

A. Yes.

Q. Do you know whether Mr. Connell was at that meeting?

A. I don't remember Mr. Connell being there.

1387 Q. Do you remember whether Richard Falk was there at that meeting?

A. I don't remember Mr. Richard Falk being at that meeting.

Q. Would you say that he was not at that meeting?

A. I didn't say he wasn't at the meeting.

Q. Well, I am asking you, would you say that he was not at that meeting?

A. I don't believe he was.

Q. You don't believe he was?

A. No.

Q. Would you say that Mr. Connell was at that meeting?

A. I don't remember Mr. Connell being at the meeting.

Q. But you remember what occurred at that meeting?

A. I remember what was said that was of importance at that meeting.

Q. The only important thing you remember of that meeting is what Mr. Falk said, is that correct?

A. Well, no.

Q. How long did that meeting last?

A. Two hours.

Q. And in those two hours, a lot of things were said and done, weren't they?

A. Well, there was quite a bit of argument and discussion.

Q. Mr. Falk, you testified, was there about fifteen minutes.

1388 A. Yes, ten to fifteen minutes.

Q. Do you recall any of the discussion that took place during the hour and three-quarters before he came?

A. Well, I wouldn't say it was an hour and three-quarters before he came.

Q. You said the meeting lasted two hours, and he came during the last fifteen minutes.

A. I said he came towards the end.

Q. How long was Mr. Falk present at that meeting?

A. Oh, from ten to fifteen minutes.

Q. Ten or fifteen minutes. Was he there when the meeting dispersed?

A. No.

Q. You don't know how long after the meeting ended—or before the meeting ended, he left, do you?

A. I don't remember just exactly.

Q. Well now, the men who were at that meeting were in session for at least an hour before Mr. Falk arrived? You would say that, wouldn't you?

A. I would say we were there an hour, yes.

Q. And you might have been in session for as much as an hour and a half before Mr. Falk arrived?

A. No, I wouldn't say that.

Q. Well now, taking the least being an hour, what occurred during that hour?

1389 A. Well, there were several arguments about unions, how we should go about it to form an independent union.

Q. Can you tell me what any particular person at that meeting said during that hour?

A. Well, I remember having a little friendly argument with Stanley Adamski during the first part of the meeting.

Q. You remember that? You remember that?

A. Yes.

Q. Do you remember anything else that was said by anybody?

A. Well, there was so much said, it is hard to remember it.

Q. Just why do you say you remember what Mr. Falk said?

A. Because I was paying strict attention to what Mr. Falk would say.

Q. Why were you paying strict attention to what Mr. Falk was saying?

A. I wanted to get what information he had, what he wanted done.

Q. Did you make any notes as to what Mr. Falk said?

A. I did not.

Q. When did you refresh your memory as to what Mr. Falk said?

Mr. Rissman: I object. He has not testified that his memory ever failed him about what Mr. Falk said. I object to that question.

Trial Examiner Batten: Well, he may answer that, 1390 if he ever did refresh his memory.

Mr. Rissman: Let him ask that question.

The Witness: I never did refresh my memory.

Q. (By Mr. Engelhard) - You knew this all the time?

A. I knew it all the time.

Q. Did you report Mr. Falk's conversation to the members of the C. I. O. at that time?

A. I did not.

Q. When did you report it to the members of the C. I. O.?

Mr. Rissman: I object. There is no testimony that it ever was reported.

The Witness: I reported it that evening to the men in the foundry.

Q. (By Mr. Engelhard) What's that?

A. I reported it that evening to the men in the foundry.

Q. To the men in the foundry?

A. Yes.

Q. Who were members of the C. I. O.?

A. None of them that belonged to the C. I. O. at that time.

Q. What's that?

A. There were not so many that I knew belonged to the C. I. O. at that time.

Q. But you reported what Mr. Falk said at that meeting to the men in the foundry that night?

A. Yes.

1391 Q. Who were some of the men to whom you reported what Mr. Falk said?

A. There were a bunch of men standing in front of the tool crib, tool shed.

Q. Name the men.

Trial Examiner Batten: Let him go ahead, Mr. Engelhard, and name the men.

The Witness: My brother, Grant Neal, and Steve Sustik.

Q. (By Mr. Engelhard) I didn't get that.

A. Steve Sustik. He spells his name "sausage" down there, but he pronounces himself "Sustik"; George Durrell; John Reese.

Q. I didn't get the last name.

A. John Reese; Lloyd Robinson. I believe that's all I remember. There were a bunch of them there, that's all I remember.

Q. You reported the full conversation of what Mr. Falk said at that meeting to those men?

A. Well, I don't remember as I reported the full conversation.

Q. Now, there is not any doubt in your mind that on the 13th, there were two meetings?

A. I believe there was.

Q. What's that?

A. I believe there was.

1392 Q. I am asking you whether there is any doubt in your mind.

A. There is no doubt.

Q. As to whether there were two meetings on the 13th?

A. There is no doubt.

Q. There is no doubt in your mind?

A. No.

Q. You can visualize yourself attending two separate meetings that afternoon?

A. Yes.

Q. What occurred at the first meeting?

A. Well, there wasn't much of anything of any importance, except that they sent over to the office to get Mr. Falk, and he wasn't there, and Richard Falk came down in his place.

Q. That was on the 13th of April?

A. As I remember it, yes.

Q. There isn't any doubt in your mind that Richard Falk appeared on the 13th of April at that first meeting?

A. No.

Q. No doubt in your mind whatever?

A. No.

Q. Who else came in to attend that first meeting, who had any connection with the management?

A. Nobody that I remember.

1393 Q. Except Richard Falk?

A. Richard Falk.

Q. And what did he say?

A. He came down there, and they explained to him that they wanted to know what information they could get—or what information Mr. Falk had got, Mr. Harold Falk, and wanted to know what he knew about it, and he said all he knew about it was that they could incorporate, it would cost them \$5.00 to incorporate.

Q. Is that all that Mr. Falk said at that meeting?

A. That's all that I remember.

Q. Is that the only meeting that you remember Richard Falk attended?

A. That's the only one I remember.

Q. You can't remember any other statement that he made to the men of that meeting, except these two sentences, I think, that you said?

Mr. Rissman: I object.

Q. (By Mr. Engelhard) That you can incorporate, and it will cost you \$5.00 to incorporate?

Mr. Rissman: I object. There is no testimony that Mr. Falk made any other statements than those two.

Mr. Engelhard: I am asking him whether that's all he can remember.

The Witness: A. That's all I—

1394 Mr. Rissman: There is no testimony that there was any more.

Trial Examiner Batten: I think he is simply asking the witness whether he remembers that was all the conversation.

Mr. Rissman: He has asked him if that's all he can remember, implying there were others.

Trial Examiner Batten: I don't think there is any implication in the thing. The question, to me, is pure and simple, whether he remembers Richard Falk saying anything else on this occasion.

Mr. Rissman: He may ask that question.

Q. (By Mr. Engelhard) Do you remember him saying anything else on this occasion except what you have testified to, that he said you could incorporate, and it would cost \$5.00?

A. That is what we were there for.

Q. No, I am asking you, is that all that you remember?

A. That's all that I remember.

Q. That's all you remember Richard Falk having said at that meeting?

A. That's all I remember, yes.

Q. Then you say there was a recess between the first meeting and the second meeting?

A. Yes.

Q. About how long a recess?

1395 A. Well, I would say forty or forty-five minutes.

Q. Then the boys again convened—

A. Yes.

Q. (Continuing)—the meeting?

A. What hadn't went home.

Q. What's that?

A. Yes, what hadn't went home.

Q. You didn't go home, did you?

A. No.

Q. You stayed there?

A. Yes.

Q. Who went home, that you remember?

A. Robert Gillett, one of the night men; and Frank Russetti;

Q. But all of the other men remained who were at the first meeting?

A. That is all I remember that went home.

Q. And when the second meeting convened for the afternoon, then who, representing the corporation, attended the meeting?

A. I believe Mr. Harold Falk was there.

Q. How long was he at that meeting?

A. Oh, five or ten minutes.

Q. And what did he say at that meeting?

A. He explained—they wanted to know what he had learned.

Q. Just tell us what he said.

1396 A. He said he had learned the same thing that Richard had told us, that we could incorporate, would be the quickest way.

Q. What else did he say?

A. That's about all I remember, all I remember him saying.

Q. You don't remember anything else he said, except that you could incorporate, that would be the quickest way?

A. Yes.

Q. Just try to probe your memory now, and see if he didn't say something else? That is, I am assuming that your testimony that he was at the meeting is true.

Mr. Rissman: I object to the question. The witness has testified that's all he remembers that was said.

Mr. Engelhard: I am asking him to probe his memory while he is on the stand, and see if he can't recall anything else that was said by Mr. Falk, or that he claims Mr. Falk said.

Trial Examiner Batten: The statement by counsel, assuming that it is true that Mr. Falk was there, I don't think that is quite the proper statement.

Mr. Engelhard: That part may be disregarded.

Trial Examiner Batten: That part may be stricken.

Q. (By Trial Examiner Batten) The question to you now is, to probe your memory and see whether or not there is any other statement that Mr. Falk made at the second meeting on the 13th that you can now recall.

A. I don't remember anything more that he said at that meeting.

Q. (By Mr. Lamfrom) Did he mention anything about the \$5.00, Harold Falk?

Mr. Rissman: Well, just a minute. Who is examining here?

Mr. Lamfrom: That is just a matter of my own personal inquiry.

The Witness: A. No. That was all that was said about the \$5.00.

Q. (By Mr. Engelhard) I take it, then, that that is the best recollection you have of what occurred at that second meeting on the 13th, that Mr. Falk merely said, "The thing to do is to incorporate."

A. Yes.

Q. That's all you remember him saying?

A. Well, that's all of any importance that was said.

Q. Well, did he say anything that was important?

A. I don't remember that. There was so much said that was not important at those meetings.

Q. Just how do you arrive at the conclusion that a particular thing that he said was important, or not important?

Mr. Rissman: I object to that question.

Mr. Engelhard: I would like to know what he means 1398 by "important".

Trial Examiner Batten: I think he may answer that question.

He says he remembers the important things, and not the unimportant. The witness may state how he distinguishes between those things.

The Witness: A. We were there to form an organization of some kind to take the place of the Works Council. We were to get advice from Mr. Harold Falk, and I think that that is what our business was there, and that is the important thing at the meeting, as to how it was to be done, and when we could do it.

Q. (By Mr. Engelhard) Did Mr. Falk, at any of the meetings, discuss the provisions of the Wagner Act?

A. No, he did not.

Q. Or the provisions of the Severson Act?

A. He didn't, that I remember.

Q. I am speaking now of Mr. Harold Falk.

A. Yes.

Q. Did Richard Falk at any time discuss the provisions of the Wagner Act?

A. Well, he might have partly discussed it.

Q. I am asking you whether he did.

A. Not that I remember.

Q. Did he at any time discuss the provisions of the 1399 Severson bill?

A. Not to me, no, not at the meeting.

Q. Not while you were at any of these meetings?

A. No.

Q. You don't remember whether that occurred or not?

A. It didn't occur when I was at the meeting.

Q. You attended all of those meetings, didn't you?

A. I attended those.

Q. On the 12th, the 13th, and the 14th?

A. Yes.

Q. You were there from the time they started until they closed?

A. Yes.

Q. You are sure of that?

A. Yes.

Q. And if, at those meetings, Richard Falk said anything

about the Severson bill, you would have heard it, wouldn't you?

A. Well, I wasn't there to learn about the Severson bill.

Q. That is not what I asked you. I said, if he had discussed with the men the provisions of the Severson bill, you would have heard it, wouldn't you?

A. I might have heard it, but I didn't remember it.

Q. You don't remember it?

A. No.

1400 Q. At this time, you cannot recall any conversation of any kind by Richard Falk, regarding the Severson bill?

A. No.

Q. Do you recall either of the two being asked at any of these meetings, "How many does it take to incorporate?"

Mr. Rissman: Either of what two?

Mr. Engelhard: Any one of the two, either Mr. Harold Falk, or Richard Falk.

The Witness: A. Mr. Richard Falk said, "It takes three to incorporate, to sign the incorporation papers."

Q. (By Mr. Engelhard) Did anyone ask him how much money it costs to incorporate?

A. I don't believe they did. I believe he stated that himself.

Q. You testified that he said it would cost \$5.00?

A. Yes.

Q. To incorporate?

Trial Examiner Batten: He just said Mr. Falk volunteered that information.

Mr. Engelhard: Yes, that's what I say he already testified.

Q. (By Mr. Engelhard) Now then, you say that on the 14th of April, another meeting took place?

A. Yes.

Q. Of that you have no doubt?

1401 A. No, I have no doubt.

Q. And that meeting took place in the basement of the hospital?

A. Yes.

Q. And all of the men were present at that meeting who were present at the other?

A. Well, as I recollect, they were all present.

Q. And who, from the management department of the corporation, were present?

A. I don't believe there was anybody from the manage-

ment, except one fellow that came down from the drafting department of the office and asked if he might stay. He said that he had authority to discharge the men.

Q. At that meeting, he said that he had authority to discharge the—

A. Yes.

Q. (Continuing) —to discharge the men?

A. Yes, as I remember it.

Q. Who was this man from the drafting department?

A. I don't know; he is a short, heavy-set fellow.

Q. Did he stay at the meeting?

A. He stayed at the meeting.

Q. You don't know his name?

A. No.

Q. What was that meeting on the 14th?

1402 A. Well, it was to find out what the fellows had done when they went to see the lawyer, they wanted to make a report on that.

Q. How long did that meeting last?

A. Well, I went to the meeting, I went down there at 12:30, I went down in the basement, and there was nobody come. We laid down there, that is, Gillett and Russetti and myself stayed down there for some time, and part of them went outside, and I stayed down there a while, and got tired of waiting, and I went outside.

I don't remember just exactly how long we did wait, something close to two hours.

Q. That was the afternoon of the 14th?

A. Yes, sir.

Q. And of course, about that, you have no mistake, you are not mistaken?

A. No.

Q. You say it was at that meeting that a committee of three were appointed to hire a lawyer?

A. They were appointed the day before, the 13th.

Q. They were appointed the day before?

A. Yes.

Q. At which meeting of the 13th?

A. At the second meeting.

Q. Was that the meeting to which Mr. Falk, you say, came?

1403 A. Yes.

Q. Were they appointed before Mr. Falk came?

A. No.

Q. After Mr. Falk—

A. Yes.

Q. (Continuing) —had attended that meeting?

A. Yes.

Q. Was there anything said to Mr. Falk, or by Mr. Falk, about a lawyer, at that meeting?

A. No.

Q. Now, at the meeting of the 14th, what occurred?

A. Well, they reported that they had went down and secured a lawyer, or they went down to see this lawyer that they had secured the day before, and reported what they had done.

Q. What was the report?

A. Well, they reported that the lawyer was fixing the incorporation papers, or had fixed them.

Q. Tell me, who made the report, and what did he say when he made the report?

A. The committee that came back, the committee of three.

Q. The three men didn't talk at once, did they?

A. No, but John Wolf was the chairman of them, he talked, and Greget talked.

Q. And who else talked?

A. Well, it seems as though there were several fellows went down there at the place that I didn't know about, didn't know they were even going. Several of them had something to say.

Q. What was the report, that was made?

A. Well, they just reported that they had fixed papers for incorporation, and that they would see about getting application blanks, and I don't remember just what.

Q. Whom did they report had been hired as a lawyer?

A. Mr. Burke.

Q. Do you know how many men, was it reported how many had gone to Mr. Burke's office?

A. Not that day at the meeting, no.

Q. Were you present when John Wolf appointed the committee consisting of three men?

A. Yes.

Q. Did you hear John Wolf give any instructions to this committee of three?

A. Well, it was generally understood.

Q. I asked you whether you heard John Wolf give any instructions to this committee of three.

Mr. Rissman: I object to the question. He may ask for any conversation, or statements by Mr. Wolf. Whether or not they were instructions will appear from the statements.

Trial Examiner Batten: I think the witness may answer whether he heard Mr. Wolf give any instructions.

1405 The Witness: A. No, I didn't hear Mr. Wolf give instructions.

Q. (By Mr. Engelhard.) You say now you didn't hear Mr. Wolf give any instructions to the committee of three to go to see Mr. Falk?

A. No.

Q. Is that correct? Is that your answer?

A. That's right.

Q. Then, all the men, you say, who were there, knew that this committee of three was to call on Mr. Falk?

A. Yes.

Trial Examiner Batten: I don't recall that he knew that.

Q. (By Mr. Engelhard.) It was generally understood that all the men there knew this committee was to call on Mr. Falk, is that right?

A. Yes, it was generally understood they were to call on Mr. Falk.

Q. Why was it understood that this committee of three were to call on Mr. Falk?

A. Because that is the plan they had talked over.

Q. The men who had attended that meeting?

A. Yes.

Q. And that meeting was on what date?

A. The 13th.

1406 Mr. Rissman: He has answered that four times, if the Examiner please.

Trial Examiner Batten: He may answer.

Q. (By Trial Examiner Batten.) What was it?

A. The 13th.

Mr. Engelhard: The 13th. I think that's all.

Trial Examiner Batten: Mr. Clark?

Mr. Clark: I don't think I have anything.

Redirect Examination.

Q. (By Mr. Rissman.) Mr. Neal, you mentioned Mr. Bryce's name. Who is Mr. Bryce?

A. Well, he is a fellow that works in the foundry office, I don't know in what capacity.

Q. What kind of work does he do, do you know?

A. Well, all I know he does, he has something to do with the credit union. I don't know what office he holds there.

Q. What kind of work does he do? Is he a clerical worker in the office of the foundry?

A. He is a clerical worker, yes.

Mr. Rissman: That's all.

Mr. Lamfrom: I didn't want you to forget that Mr. Falk is here, if you want to ask him that question, unless you want to ask the witness some questions.

Trial Examiner Batten: No, I have no questions to ask the witness. That's all, Mr. Neal.

1407. (Witness excused.)

Trial Examiner Batten: Mr. Falk, I wonder if you will take the stand once more?

HAROLD S. FALK, a witness called by and on behalf of the National Labor Relations Board, having been previously duly sworn, resumed the stand and testified further as follows:

Examination by the Chair.

Q. (By Trial Examiner Batten.) Mr. Falk, I have requested that you return because, when you were on the stand the other day, there was a question I meant to ask you, and neglected to do so.

It is with respect to Mr. Kinch, whether or not his employment record is such with your company that you would not give any consideration to his reinstatement.

Now, my reason for that question is, it appears that Mr. Kinch has not directly requested you for reinstatement and my question is, is his record such that the company could not give any consideration to his reinstatement?

A. Why, I feel, Mr. Batten, that if Mr. Kinch could be reinstated, that a good many of the men would feel somewhat disappointed, if he came back, many of them have expressed that opinion to me, in my wanderings about the shop, talking with them.

I don't think it would add anything to the morale and 1408 the harmony of our institution if he came back.

Q. Well, of course, I am not so much interested in that. I think that answers my question rather indirectly.

The thing I was concerned about is, is his record such with your company that you do not feel that you should give any consideration to his reinstatement?

Now, as to the reasons, I think the answer you gave me was more in the form of your reasons.

Am I correct in assuming from your answer that you would not care to give consideration to his reinstatement?

A. Yes, sir, that's right.

Trial Examiner Batten: That's all.

Mr. Rissman: In connection with that;

Redirect Examination.

Q. (By Mr. Rissman.) By his record, in response to Mr. Batten's question, you referred to the activities of his, you spoke about when you were on the stand before, Mr. Kinch's activities in the plant?

A. Just what do you refer to there, Mr. Rissman?

Trial Examiner Batten: I think that is pretty clear, Mr. Rissman.

Q. (By Mr. Rissman.) You don't mean his work record?

A. That has a good deal to do with it, too, from that time on, yes.

Q. Was his record of work, his production record, 1409 if there is such a record for him, a factor in the reason for his discharge?

A. I will say "yes".

Q. In what sense?

A. I think he became very much less co-operative at that time than he had been previously.

Q. Co-operative with fellow-workers?

A. With his fellow-workers, yes.

Q. But as to the quality of his workmanship, have you any opinion, or do you have any knowledge as to that?

A. Not any way direct.

Mr. Rissman: That's all.

Trial Examiner Batten: That's all.

Mr. Lamfrom: That's all.

(Witness excused.)

Trial Examiner Batten: We will adjourn until 9:30 tomorrow morning.

(Whereupon, at 9:12 o'clock p. m., Thursday, August 19, 1937, the hearing was adjourned to 9:30 o'clock a. m., Friday, August 20, 1937.)

1413 **BEFORE THE NATIONAL LABOR RELATIONS BOARD.**

• • (Caption—XII-R-85 and XII-C-57) • •

Room 409, Milwaukee County Courthouse,
Milwaukee, Wisconsin.

Friday, August 20th, 1937.

The above entitled matter came on for further hearing,
pursuant to adjournment, at 9:30 o'clock A. M.

Before:

James C. Batten, Trial Examiner.

Appearances:

Robert R. Rissman and S. G. Lippman, Attorneys, on
behalf of the National Labor Relations Board.

A. G. Goldberg, 511 Warner Building, Milwaukee,
Wisconsin, appearing for International Union of
Operating Engineers, Local 311.

Giles F. Clark, of Alexander, Burke & Clark, 110 East
Wisconsin Street, Milwaukee, Wisconsin, appearing
for Independent Union of Falk Employees.

Lamfrom, Tighe, Engelhard & Peck; by Mr. Leon B.
Lamfrom, and Mr. A. J. Engelhard, appearing for
The Falk Corporation.

1414

PROCEEDINGS.

Trial Examiner Batten: I believe we are ready to pro-
ceed, gentlemen.

Mr. Rissman: Mr. Landry.

HAROLD LANDRY, a witness called by and on behalf of the
National Labor Relations Board, being first duly sworn,
was examined and testified as follows:

Direct Examination.

Q. (By Mr. Rissman.) Will you state your name please.

A. Harold Landry.

Q. Are you employed by The Falk Corporation?

A. I am.

Q. How long have you been employed there?

A. About 12 years now.

Q. And in what department are you now employed?

A. The machine shop.

Q. What kind of work do you do there, Mr. Landry?

A. Operate a boring mill.

Q. How long have you been engaged in that operation?

A. Oh, I judge about eight years, something like that.

Q. Are you a member of any labor organization?

A. The C. I. O.

Q. The Amalgamated Association of Iron, Steel and Tin Workers?

1415 A. That is right.

Q. How long have you been a member?

A. I couldn't tell you the exact date. Some time the week starting April 11th, I believe was the week.

Q. 1937?

A. Correct.

Q. Are you an officer of that union?

A. I am.

Q. What office do you hold?

A. President.

Q. Were you the first president elected?

A. No.

Q. When were you elected, or how long have you been president?

A. I believe April 25th, something like that.

Q. Have you been in the courtroom all the time that this hearing has been going on?

A. I believe I have.

Q. And you have heard the testimony of other witnesses?

A. Yes.

Q. Do you recall the testimony of witnesses with reference to the occasion in 1933 when Mr. Harold Falk spoke to employees in the plant on the 16-foot boring mill?

A. I believe I do.

Q. Were you present at that time?

1416 A. I was.

Q. I mean in 1933.

A. Yes, sir.

Q. Is your recollection of his statements the same as the testimony you heard here?

Mr. Lamfrom: Objected to as incompetent, irrelevant and

immaterial, for the same reasons as the testimony of the witnesses referred to was objected to.

Trial Examiner Batten: The objection will be overruled and the testimony accepted for the same reason as the others, as to indicate the history of the labor relations in the plant.

Mr. Engelhard: Your Honor, I wish to interpose an objection that it is improper to ask a witness whether his testimony is the same as some other witnesses'.

Trial Examiner Batten: You may proceed and have the witness testify to all the facts.

Mr. Rissman: Yes, sir.

Q. (By Mr. Rissman.) Directing your attention to that statement made by Mr. Falk in 1933, would you tell us what he said?

Mr. Lamfrom: It will be understood, I presume that my objection—

Trial Examiner Batten: Yes.

Mr. Lamfrom: (Continuing.) —goes to the same line of evidence, all through this witness' testimony?

1417 Trial Examiner Batten: Your objections may stand to all of the testimony with respect to matters prior to—

Mr. Rissman: 1937?

Trial Examiner Batten: (Continuing.) —1937, that is the time that the testimony refers to the issues of this case.

Mr. Lamfrom: And particularly to the time so far remote from 1937 as is 1933.

Trial Examiner Batten: You may have that objection, a continuing objection.

Mr. Lamfrom: That's right.

A. As I recollect it, Mr. Falk appeared, to give us a talk at the 16-foot mill at eleven o'clock, or ten thirty, something like that, in the evening, a day or so after Mr. Hydar had given us a talk, urging us to vote and elect officers for this Works Council, and the men had done the opposite, and voted for Federation of Labor men, outside, and Mr. Falk—

Mr. Lamfrom: Just a minute, if the Examiner please. He is not relating the conversation. He is relating incidents which seem to be quite fresh in his mind concerning the conversation and what preceded it. That answer is not responsive to the question.

Trial Examiner Batten: Mr. Landry, will you tell us just what Mr. Falk said at this meeting.

Mr. Lamfrom: I move that the answer up to date, 1418 in so far as it is immaterial and not responsive to the question, be stricken.

Trial Examiner Batten: In so far as it is not responsive, it may be stricken.

Q. (By Mr. Rissman.) What did Mr. Falk say?

A. He said in substance that they are going to have another election, and not to waste our time voting for outside union men, that it was restricted to men employed in the shop, I believe it was a year, and that any ballots cast for persons not employed there would be thrown away.

Q. You say Mr. Falk said there would be another election?

A. Yes.

Q. Had there been an election for Works Council representatives before this occasion?

A. I believe so.

Q. Do you know, or did Mr. Falk state, or Mr. Hydar, why it was necessary to have another election?

A. Because the majority of the men, it seemed voted the wrong way in their estimation.

Mr. Lamfrom: Just a minute. Are you repeating what Mr. Hydar said?

Mr. Rissman: He is repeating at that time what he said.

Mr. Lamfrom: Or what you think?

The Witness: I am giving my own recollection.

Trial Examiner Batten: What was the answer?

1419 (The answer was read.)

Trial Examiner Batten: What was the question?

(The question was read.)

Q. (By Trial Examiner Batten.) Did either one of these men ever state why it was necessary to have another election? I mean, did they state?

A. I thought it was answering it. They didn't, to my—

Q. I don't care what you think, Mr. Landry. I am asking you, did either one of these men say it was necessary to have another election?

A. The fact that they had, I believe, speaks for itself.

Mr. Lamfrom: Now, there you are.

Trial Examiner Batten: Will you strike that answer, please?

Q. (By Trial Examiner Batten.) Did either one of these men ever say that, that it was necessary to have it?

A. I don't believe so. I didn't vote.

Q. Do you know why it was necessary to have another election?

A. It was common talk—

Q. You can say yes or no, whether you know.

A. I can't prove it, no.

Q. (By Mr. Rissman.) Was there any discussion among the employees as to why there was a second election?

A. Very much.

1420 Q. What was the discussion?

Mr. Lamfrom: Objected to as being incompetent, irrelevant and immaterial.

Trial Examiner Batten: Overruled. He may answer the question.

A. It was common talk through the shop, and I don't recollect the name of the ballot clerks, but the information came back in that about 90 per cent of the day men had voted for outside representatives, and that appears to be the reason why Mr. Falk came down to re-explain the fact that they could just vote for those in the shop.

Mr. Lamfrom: I move that part of the answer, commencing with the words "it appeared" be stricken.

Trial Examiner Batten: It may be stricken.

Mr. Rissman: Remember, he is relating the discussion.

Trial Examiner Batten: Not when he says "it appears". As long as he states what the employees were talking about, that is perfectly proper.

Q. (By Mr. Rissman.) Mr. Landry, did the employees at any other discussion state that it appeared the reason Mr. Falk wanted another election was because 90 per cent of the votes were for outside representatives?

A. Yes.

Mr. Lamfrom: Objected to for the same reason, and for the additional reason that it becomes even more remote, 1421 speculative hearsay, than called for by the first question.

Q. (By Trial Examiner Batten.) Was that part of the conversation which was passing around in the shop?

A. Yes.

Q. Amongst the employees?

A. Very much so.

Trial Examiner Batten: The answer may stand.

Q. (By Mr. Rissman.) At approximately the same time in the summer of 1933, after the enactment of the N. I. R. A., were there any meetings called for Falk employees by outside labor organizations?

A. Just about the time of this talk that organization meeting was called, I can't give the exact date, at the Waukesha Inn.

Mr. Lamfrom: Now, just a minute. I believe that answer is not responsive to the question.

Mr. Rissman: Make your objection.

Mr. Lamfrom: You asked him whether any meetings were called by outside representatives.

Trial Examiner Batten: I think he said there was a meeting called at the Waukesha Inn.

Mr. Lamfrom: Yes. Is that responsive to the question, "Was there a meeting called by outside representatives?" It seems to me that could be answered yes or no.

Q. (By Trial Examiner Batten.) Who was the meeting called by, do you know?

1422 A. He objected before I could finish.

Q. Do you know who it was called by?

A. Yes, sir.

Q. Who?

A. Local 66, American Federation of Labor.

Q. (By Mr. Rissman.) That is the International Association of Machinists Union?

A. That's right.

Q. Where is the Waukesha Inn?

A. The north end of 27th Street viaduct.

Q. How far is that from the factory?

A. About half the length of the viaduct, maybe half a mile.

Q. Did Mr. Harold Falk say anything in addition to the fact it was necessary to have another election?

Mr. Engelhard: His testimony was that Mr. Harold Falk didn't say anything like that, that neither Mr. Harold Falk or Mr. Hydar said anything like that. You asked him that, and he said No, they didn't. You are putting it in the question as though that were a fact.

Q. (By Mr. Rissman.) Tell us what Mr. Harold Falk said?

A. He said that they would not bargain, they had had one brush with the union there back some years, and that they would close the doors before they would allow outside unions to come in and tell them how to run their shop.

Q. Were you a member of the Works Council, Mr. Landry?

1423 A. Yes.

Q. How long were you a member?

A. I don't recall exactly.

Q. Were you a member up to the end of the Works Council?

A. No.

Q. During the time you were a member, what department did you represent?

A. Nights, machine shop only.

Q. How did your membership as a representative in the Works Council terminate?

A. I refused the renomination.

Q. Prior to the time you refused the renomination, had you ever left the Works Council, or resigned from its membership?

A. I had tried to.

Q. What do you mean by "you had tried to"?

A. I offered my resignation at a meeting, and they voted not to accept it.

Q. Why did you offer your resignation?

A. Because I was disgusted with it.

Q. With what?

A. The Works Council.

Q. Did you, at the time you offered your resignation, make known to the Works Council the reasons why you were offering it?

A. Yes.

1424 Mr. Lamfrom: Let's fix the time of this. I am a little bit hazy as to just when the gentleman took that step.

A. It is in the minutes. I couldn't give you the date.

Mr. Lamfrom: I know it is in the minutes.

Q. (By Mr. Rissman.) In the minutes of the Works Council?

A. That is right.

Q. (By Mr. Lamfrom.) Give us your best approximation of it.

A. I can't, I couldn't even tell you the year.

Q. And you remember all these other things?

A. I certainly do.

Mr. Rissman: I object to these questions by Mr. Lamfrom. If he has an objection, let him make it. If he wants to cross-examine, he can wait until I am finished.

Trial Examiner Batten: You may proceed.

Q. (By Mr. Rissman.) Directing your attention to April 12, 1937, did you, on that day, attend any meeting at the plant?

A. Yes, sir.

Mr. Lamfrom: What was the date?

Mr. Rissman: April 12th.

Q. (By Mr. Rissman.) What time was that meeting?

A. About 12:30, I believe.

Q. 12:30 in the afternoon?

A. That's right.

Q. How were you notified or advised of that meeting?

A. By my wife.

1425 Q. What time did you get to the meeting, did you say?

A. Around 12:30; I don't recollect exactly.

Q. When you were notified by your wife that you were to go to the meeting, did she give you any reason why you were to go there?

A. Yes.

Q. What was the reason?

A. She said Mr. Hydar had come there looking for me, and left word that I should get to the shop as soon as I could, there was a meeting to be held at 12:30.

Q. Is that all the information you had about the meeting?

A. Yes, sir.

Q. When you got to the shop and to this meeting, did you learn the purpose of the meeting?

A. Very quickly.

Q. From whom?

Trial Examiner Batten: Mr. Rissman, may I ask a question there?

Mr. Rissman: Surely.

Q. (By Trial Examiner Batten.) You were here yesterday, Mr. Landry, when Mr.—who were the two men who testified about the meetings?

Mr. Rissman: Mr. Neal.

Q. (By Trial Examiner Batten.) You heard Mr. Neal's testimony, did you, about that meeting of April 12th?

1426 A. I did.

Q. And you heard Mr. Wilfer?

Mr. Rissman: No, Mr. Adamski testified about the meeting.

Trial Examiner Batten: Mr. Adamski.

Q. (By Trial Examiner Batten.) You heard their testimony, did you?

A. Yes, sir.

Q. With respect to what happened at the meeting?

A. Yes, sir.

Q. And who was present, and who talked, and what was said?

A. Yes, sir.

Q. Now, was their testimony substantially correct as to what happened there, and what was said?

A. I believe there was slight differences.

Q. I mean, was it substantially the same?

A. Very close.

Q. (By Mr. Lamfrom.) Do you mean that the testimony of Adamski was very close to the other witness, or that the testimony of both witnesses was very close to what actually occurred?

A. You are partly right on both questions. It appeared to me that Mr. Adamski had a sudden loss of memory on vital parts.

Q. (By Trial Examiner Batten.) Was the testimony of Mr. Neal, as he related it yesterday, substantially as it happened?

A. Very close.

Q. (By Mr. Rissman.) Is that your recollection of what occurred at the meeting of April 12th, the testimony of Mr. Neal?

A. Well, now, I can't go over word for word his testimony. I heard it, and I agree with most of it, but I couldn't go over it word for word.

Mr. Engelhard: I submit the proper way, your Honor, is to ask this man what he knows happened.

Trial Examiner Batten: You may proceed and ask him, have him relate the whole story.

Mr. Rissman: All right, sir.

Q. (By Mr. Rissman.) Tell us how you learned the purpose of the meeting, and from whom, when you got there?

A. There were about somewhere between 20 and 23 members and former members of the Works Council there, they were all there when I got there, and Mr. John Brever, I believe, was chairman, and they were discussing, and they kept on discussing for quite a while, how to start an independent union. There was considerable discussion on that point.

Q. Was this the first time that you heard the purpose of the meeting was to create an independent union?

A. I had heard some talk in the shop amongst the men, after the last meeting of the Works Council.

1428 Q. Do you recall that at this meeting of April 12, 1937, Mr. Harold Falk appeared?

A. I do.

Q. Do you recall any statement made by Mr. Harold Falk?

A. In answer to a question, I do.

Q. What was the statement he made?

Mr. Lamfrom: What was the question?

Q. (By Mr. Rissman.) Tell us what the question was, and his answer.

A. The question, I clearly remember, was made by Mr. John Wilfer, and he said, "If you push the raise up a month from June 1st until May 1st, wouldn't that keep a lot of men from joining the C. I. O.?"

Q. Do you remember that very distinctly?

A. I do.

Q. And you are sure that John Wilfer used the words "C. I. O." or the name "C. I. O."?

A. Yes.

Q. Did he refer to the C. I. O. union, the Amalgamated Association of Iron, Steel and Tin Workers?

A. I think so.

Q. There wasn't any other C. I. O. union in the plant?

A. No.

Q. What was Mr. Falk's answer to that question, or that statement?

1429 A. As close as I recall the words, I believe he started out by saying, "We are not stiff that we can't bend a little. If that is the way the boys feel about it, I believe we can make it May 1st."

Q. And the raise was actually granted on May 1st?

A. It was.

Q. Can you tell us, Mr. Landry, as president of your union, if the granting of that raise had any effect upon membership of that union?

Mr. Lamfrom: I object.

Q. (By Mr. Rissman.) (Continuing) Or the obtaining of members for your union?

Mr. Lamfrom: That is objected to, as calling for a conclusion.

Trial Examiner Batten: I think, in the case of this witness being president of the union, he may testify as to what occurred, what happened to the membership of the union subsequent to this time, if that is your question.

Mr. Rissman: Yes, sir, the effect.

Trial Examiner Batten: I do not understand your ques-

tion to be to this witness "What effect did this statement have on it."

Q. (By Mr. Rissman.) Do you know, Mr. Landry, whether or not this action of the company's in moving the raise up from June 1st to May 1st had any influence upon the 1430 number of men who later came into the union?

A. Are you asking my personal knowledge?

Q. I am asking you if you know what the result was.

A. Only from what the men told me.

Q. From what the men told you, what was the result?

A. Some of them said, "There you are. The Independent Union is getting us a raise," and others said, "Falks are sticking their nose in here. I am going to join the C. I. O."

Q. Do you recall any other statement by Mr. Falk at that meeting?

A. I believe that he was asked some question there, to which he answered that he was not allowed to give any advice.

Q. Do you recall what the question was?

A. I do not.

Q. Was there any discussion there or any statement by Mr. Falk, relating to an independent union?

A. I couldn't say, I don't remember that.

Q. After that meeting, did you attend any other meetings of this group that was organizing the Independent Union?

A. Yes.

Q. When was that?

A. The next day.

Q. Did you hear the testimony of Mr. Neal?

A. Yes.

Q. With reference to that meeting?

1431 A. Yes.

Q. And you were present at that meeting?

A. I was.

Q. And is your recollection of what occurred and what was said at that meeting substantially the same as the testimony given by Mr. Neal?

Mr. Engelhard: That is objected to.

Trial Examiner Batten: He may answer the question—oh, you are objecting to the question?

Mr. Engelhard: I objected to that question because it asks one man to affirm another man's testimony given under oath. So far, he has shown quite a divergence, his testimony, as to what happened at the meeting of the 12th.

Trial Examiner Batten: Is that an indication that he might do so with respect to this one? Does it follow that he would with respect to this one?

Mr. Engelhard: Well, I think it is improper to ask a question, whether or not his testimony would be the same as another man's.

Trial Examiner Batten: That is quite a different objection. I believe, Mr. Rissman, you had better inquire of this witness, and have him relate all the details.

Mr. Rissman: Yes, if we want to take the long way.

Trial Examiner Batten: You may proceed.

1432 Mr. Rissman: Then that last question will remain unanswered.

Trial Examiner Batten: Yes; there was an objection to it.

Mr. Rissman: I will withdraw it.

Trial Examiner Batten: No, it doesn't need to be withdrawn. It was objected to.

Mr. Rissman: All right.

Q. (By Mr. Rissman.) Tell us what happened at the meeting of the 13th and where it was held.

A. It was held in the meeting room underneath the hospital, in the afternoon and there was much more discussion about how to form this independent union.

Q. Mr. Landry, were you at that time employed on the night crew?

A. I believe I was.

Q. And when you attended these meetings, the one on April 12th and the one on April 13th, what if anything did you do to record the time you spent there?

A. I didn't record it.

Q. Were you paid for the time you spent at these meetings?

A. Yes.

Q. Do you know if any reports were made by you or by anybody for you as to how much time you spent at these meetings?

A. I couldn't say.

1433 Q. Was the sum of money paid to you for attendance at these meetings later deducted from your wages?

A. Yes.

Q. Do you recall what amount was deducted, or for what number of hours?

A. I believe there was either 16 or 17 hours that was deducted.

Q. That was deducted from the pay check subsequent to the one where you received it?

A. That's right.

Q. Now, tell us, at this meeting of April 13th, were any of the Falks present or anybody representing the management present?

A. I wouldn't swear which day, but I believe that is the day that Richard Falk appeared.

Q. There was a meeting on the following day, too, was there not?

A. Yes.

Q. And was there more than one meeting on any one day?

A. Yes. On one of those days there was two meetings.

Q. And at one of those meetings Richard Falk was present?

A. Yes.

Q. Did you hear Richard Falk make any statement?

A. Yes, sir. He told them what it would cost to incorporate and the fact that three men had to sign the incorporation papers.

1434 Q. Was Harold Falk present at any of these meetings on the 13th or 14th?

A. Not that I remember.

Q. Were any of the other men, employees of the company, present?

A. I don't think so.

Q. If you recall?

A. I don't think so.

Q. Do you recall any statement at any of these meetings on the 12th or 13th with reference to the engaging of an attorney?

A. Yes.

Q. What do you recall with reference to that?

A. Through our discussion we finally decided that we would have to get an attorney to steer us along a little bit, and the names everybody started mentioning, somebody said "Who shall we retain," and I know I replied there was plenty of good labor lawyers, like Mr. Padway and Mr. Quick, and other names were mentioned, I couldn't honestly say what they were, and as I recall it, I believe Mr. Greget said "Let's go and ask Mr. Harold Falk if he can recommend somebody that is familiar with this type of work."

Q. Did anybody at that meeting, as you recall, mention Mr. Burke's name as an attorney?

A. No.

1435 Q. Did Mr. Clark, who now represents the Independent Union?

A. No.

Q. The two names you do remember were Mr. Padway's and Mr. Quick's?

A. That's all, because I mentioned them.

Q. Tell us what happened after Mr. Greget made this statement?

A. The temporary chairman, Mr. Wolf, appointed a committee of three to go and ask Mr. Harold Falk if he could suggest a lawyer.

Q. Did they report back? You were not on that committee, were you?

A. No.

Q. Did the committee report back to the group of men what conversation they had with Mr. Falk?

A. They did.

Q. And what did they report?

A. That they had called up and made an appointment with Mr. Burke for the following morning at 10 o'clock.

Q. Was there any comment by any of the members as to that?

A. I objected very much.

Q. What was your objection?

A. The fact that Mr. Falk was suggesting a lawyer.

Q. Did you make known that objection?

A.. I did.

1436 Q. To the men?

A. I did.

Q. What was said, if anything in response to your objection?

A. They immediately started trying to piece together some story they would all tell in case anybody asked who had suggested the lawyer.

Q. (By Mr. Lamfrom.) Who are "they"?

A. The members present.

Q. (By Mr. Rissman.) Do you recall the specific statement of any particular individual as to what kind of a story they would piece together?

A. I just remember my own.

Q. What did you state?

A. I said, "Boys, there are too many men here. It is going to get out. You can tell what you want to. If anybody asks me, it was Mr. Harold Falk."

Q. (By Mr. Lamfrom.) Was there any mention made that Mr. Falk—

Mr. Rissman: I object to this interruption, if the Examiner please.

Mr. Lamfrom: Oh, well, all right.

Mr. Rissman: Well, I do.

Trial Examiner Batten: You may proceed, Mr. Rissman.

Mr. Lamfrom: Go ahead.

1437 Q. (By Mr. Rissman.) After this meeting of April 13th, or the meetings on that day, did you attend any other meetings with this same group?

A. Part of them the next day.

Q. Where were they held?

A. At ten o'clock in the morning, down at Mr. Burke's office.

Q. Were you paid for the time you attended the conference at Mr. Burke's office?

A. I was.

Q. Tell us what occurred, as you remember it, in Mr. Burke's office?

A. We finally conveyed to him—everybody, it seems, took a turn talking, and he finally got the drift, that they wanted to find out how to go about creating an independent union, and as I remember it, he replied, "What you boys want is a nice little organization of your own, within your plant. I think that is a fine idea," and he proceeded to bring out—I believe they were provisional by-laws, I think it was provisional by-laws, which they read to us.

Q. (By Mr. Lamfrom.) Who are "they"?

Q. (By Mr. Rissman.) Who read these provisions to you, or whatever it was?

A. It was either Mr. Burke or Mr. Clark, I wouldn't say which.

1438 Q. One of the attorneys?

A. Yes.

Q. What was said there with reference to paying Mr. Burke or Mr. Clark, paying the fees and the expenses?

A. They asked—

Q. Who asked?

A. I couldn't say.

Q. Some one of the men?

A. Some one of our group said "Now, before we go any further, Mr. Burke, how much are you going to charge us for this?" And he replied that it was nothing to argue about, that

if the Independent Union retained him as their counsel, that that would be all taken care of, and if they didn't it wouldn't cost us anything.

Q. After that meeting in Mr. Burke's office, did you ever attend any other meetings or conferences with this group?

A. I believe they went right back to the shop, to the meeting.

Q. What occurred at the shop?

A. The rest of the members holding conferences were waiting there for us and we discussed the matter of running along as an association, or incorporating, there was very much discussion on that point.

Q. Did you take any part in the discussion?

A. Yes, I chipped in, too.

1439 Q. After that meeting, did you ever attend any other meetings with this group who were organizing the Independent Union?

A. I believe the next day.

Q. In the plant?

A. Sir?

Q. In the plant?

A. Yes.

Q. At the same place as the other meetings?

A. Yes, sir.

Q. During working hours?

A. Yes.

Trial Examiner Batten: Have you any objection if we recess for just a few minutes?

Mr. Rissman: To take up that matter?

Trial Examiner Batten: Yes. I wanted to talk with Mr. Goldberg, Mr. Adelman and the attorneys, please. If you want Mr. Landry, you can bring him too, or any of the officers.

(Whereupon the Trial Examiner, counsel and parties retired to chambers.)

(Discussion outside the record.)

Mr. Goldberg: I will put it as I think we mean it. If I am wrong, you simply stop me.

Mr. Adelman: O. K.

1440 Trial Examiner Batten: Do you want me to go ahead, and I will dictate it?

Mr. Goldberg: All right, go ahead.

Trial Examiner Batten: It is stipulated by and between the Amalgamated Association of Iron, Steel and Tin Work-

ers of North America, and the International Union of Operating Engineers, Local 317—I forget your local number?

Mr. Louis Meindel: Ours is 1528.

Trial Examiner Batten: 1528, of the Amalgamated Association of Iron, Steel and Tin Workers of North America; that as between these two organizations, they agree to the following:

That if, in the determination of the issues in this case, the National Labor Relations Board decides to hold an election in the plant of the Falk Corporation, that if and in that event the 15 employees in the power house and the 2 operating engineers operating the dummies or mobile cranes shall vote separately to determine whether it is their desire to have the Amalgamated Association or the International Operating Engineers represent them for the purpose of collective bargaining.

And it is further stipulated and agreed that this is only effective if, in such an election, only the names of the two organizations above referred to appear on the ballot.

Does that cover it?

1441 Mr. Adelman: That is acceptable to us.

Mr. Goldberg: It is acceptable to us.

Trial Examiner Batten: It was suggested by the Trial Examiner to Mr. Clark, the attorney for the Independent Union of Falk Employees, that this organization also enter into this agreement; that it was Mr. Clark's position that if the Board determine that the plant, including the power house, was the unit, and even if the power house employees voted separately and selected the International Operating Engineers as their bargaining agent, that in that event The Falk Corporation would still have to bargain with the organization which secured the majority of the votes in the entire plant, and for that reason the above stipulation was made effective only as between the Amalgamated Association and the International Operating Engineers.

Mr. Rissman: I think the records should state, also, that this stipulation was dictated in chambers, and where all parties were present, and if not participating in it at least heard it dictated, so it will not look like a deal between the two unions.

Mr. Lamfrom: Let the record show that The Falk Corporation did not participate in anything connected with the stipulation.

Trial Examiner Batten: We will recess a few minutes more, gentlemen, and then we will resume.

1442 (A short recess followed.)

(Whereupon, the Trial Examiner, counsel and the parties returned to the hearing room, where the following further proceedings were had:)

Trial Examiner Batten: I believe we are ready to proceed, gentlemen. I presume that the newspaper men may be interested in what occurred at this conference.

Mr. Rissman: They might have a slight interest.

Trial Examiner Batten: There is nothing secret about it, except that there was a stipulation entered into between the Amalgamated Association of the C. I. O. and the International Operating Engineers, the A. F. of L. organization, that if the Board determines that it is necessary to hold an election in the Falk plant, that, as between these two organizations, they agree that the engineers and the two men employed on the dummies or mobile cranes shall vote separately as between these two organizations.

Now, the Independent Employees Association—

Mr. Rissman: Independent Union of Falk Employees.

Trial Examiner Batten: (Continuing.) —did not enter into this arrangement, and the arrangement in no way affects any of their rights or interest.

Mr. Lamfrom: They need not take this down. That is the Independent Union of Falk Employees.

Trial Examiner Batten: Yes, Independent Union of
1443 Falk Employees.

Mr. Rissman: Independent Union of Falk Employees.

Mr. Lamfrom: Not the Association.

Trial Examiner Batten: In other words, the stipulation is effective as to the C. I. O. and the A. F. of L. organizations. I think we are ready to proceed.

Mr. Rissman: Will you read the last question, please?

(The record was read by the reporter.)

Q. (By Mr. Rissman.) What was this meeting about?

A. I believe it was decided to proceed without incorporating as an Association, and to have applications printed for this association.

Q. Was there anything else discussed at that meeting, that you recall?

A. I don't remember any more.

Q. After that meeting, did you ever participate in any

affairs, or in any meetings, or conferences, with this same group?

A. The first meeting of this independent organization to gain members for the organization.

Q. You refer now to the meeting testified to that was held at the North Avenue Auditorium?

A. I do.

Q. Do you recall any of the statements there by 1444 members of that organization with reference to the attorney?

A. Yes.

Q. Whose statement, and tell us what it was.

A. Someone asked who had recommended or suggested the attorney they had decided upon, and it was answered by Mr. Les Greget. I believe that when the party asked the question they said "We hear that Mr. Harold Falk had suggested this attorney. Is that so?"

Q. What did Mr. Greget say?

A. He said "That is not so. I personally recommended Mr. Burke, because I had had dealings with him myself."

Q. Are you quite sure, Mr. Landry, that Mr. Greget said "That is not so. I personally had dealings with Mr. Burke myself"?

A. I am. It impressed me very much.

Q. Why did it impress you very much?

A. Because it was very false, misleading.

Q. After that meeting at the Auditorium, that first meeting you just testified about, did you ever attend any other meetings or conference of this group of the Independent Union?

A. No.

Q. When was the last time you participated in any of their affairs as one of their members, or as one of their fellows?

A. I believe that meeting terminated my connection.

Q. What were the reasons for the termination of 1445 your connection with them?

A. I was convinced that the company had a finger in the pie, and wanted nothing to do with it.

Q. You mean you wanted nothing to do with it?

A. Yes.

Q. Can you sum up for us the reasons that convinced you the company had its finger in the pie?

A. The statement that I just related with regards to Mr. Greget, the fact that all the men—the majority of the men, in these Works Council meetings were men that in my opinion had always tried to go out of their way to gain favor in the company's eyes, and I believe it showed it through the various acts that they tried to concoct the story as to who suggested the lawyer, and the reputation those men had in the shop.

Q. Has anything occurred from that time until now to cause you to change your opinion?

A. No.

Q. Has anything occurred from that time until now to cause your opinion to be confirmed?

A. I would say yes.

Q. Can you relate to us the things that have occurred that stand out in your mind at the present time, that confirm your opinion that the company had its finger in the pie?

A. I was told that I could get application blanks 1446 from Mr. Greget, and when I came to work I proceeded down to where he works to get these application blanks. He handed me a handful, and I sat on his bench and talked about the methods of distributing them, and he said "You can't do this openly, but you can do it underhand, like the C. I. O. did."

While he was talking, Mr. Harry Green walked up, I imagine to see him, I don't know, but he came right up and looked through the machines, —it is a big bar, and he talked through the bar, and he seen me sitting there with my lap full of application blanks, and he turned around and walked away.

Q. Can you tell us whether that was before or after this meeting at the North Avenue Auditorium?

A. I believe it was before.

Q. All right, give us some other instances, or reasons why you feel that your opinion that the Independent Union of Falk Employees has relationship with the company was confirmed?

A. When I got back to my machine, I was asked by an apprentice, whether he could sign up. I said "I don't know, I will find out right away."

And I went right back down to Mr. Green, and asked him if we would sign up apprentices in the Independent Union. He said "Sure, sure, go ahead."

I turned around and walked away.

1447 Q. Why did you ask Mr. Green, the superintendent, if apprentices would be eligible to vote in this Independent Union?

A. I was under the conclusion that it was cooked and dried. I went to him, and he answered it.

Q. Have you ever asked Mr. Green who you could sign up for C. I. O. membership?

A. I have not.

Q. Can you relate to us any other instances that confirm your opinion that the Independent Union of Falk Employees is associated or connected with the company?

A. Yes.

Q. Tell us.

A. One of the men was distributing C. I. O. cards, application blanks, and in some manner it came to the attention of Mr. Green, and he took this man off the machine he was operating on the night shift, and put him on a job days as a helper. I don't believe he changed his wages any, but it was a demotion, in my estimation, it was just helping, a poorer job.

Q. Was it less desirable work than he had been doing before?

A. In my estimation it was; also, the man, the way he told me.

Q. Who was that man?

1448 Mr. Engelhard: Just a minute. Were you present when this occurred?

Mr. Rissman: I object to the interruption. If you have an objection, you can make it. If you want to cross examine, wait your turn.

Mr. Engelhard: I will merely ask this question so I can make a motion.

Trial Examiner Batten: Just a minute. It is purely a question laying a foundation for an objection?

Mr. Engelhard: Yes. That is its purpose.

Mr. Rissman: This witness is not required to answer this question at this time.

Trial Examiner Batten: He is simply asking the question for the purpose of making an objection, I presume.

The Witness: What was the question?

Q. (By Mr. Engelhard,) Mr. Landry, were you present when Mr. Green demoted this man?

A. I was not.

Mr. Engelhard: Then I move that the testimony of the witness be stricken, because it did not occur in his presence.

Q. (By Trial Examiner Batten.) You are relating the incident as this man told it to you?

A. And as Mr. Harry Green told it to me.

Trial Examiner Batten: I will overrule the objection. He may testify as to what this man told him, and also what 1449 Mr. Green told him.

Q. (By Mr. Rissman.) Who is this man, do you recall?

A. Lee Rasey.

Q. Tell us what Lee Rasey told you in this connection. Did he speak to you first? Who spoke to you first, Mr. Rasey or Mr. Green?

A. I believe Mr. Rasey.

Q. Tell us what he told you.

A. He said that somebody squealed on him and Green came over and gave him hell, and put him on the day shift, helping, I believe, with Joe Trest. I am not certain of that name.

Q. What did Mr. Green tell you about this incident?

A. I asked him if that was so. He said "Certainly it was so. He has no right to go around the shop, bothering the men, and leaving his own machine. I put him where I can watch him."

Q. You say Lee Rasey is now a helper to Joe Trost?

A. He was then. I don't believe he is employed there any more.

Q. But the position to which he was transferred was in connection with Joe Trost?

A. Yes.

Q. Who is Joe Trost?

A. Why, he has been recorder.

Q. No, tell us who he is.

1450 A. He is a machinist.

Q. (By Mr. Lamfrom.) Don't be so fast. Take it easy.

A. He is a machinist.

Q. (By Mr. Rissman.) What were his labor affiliations?

A. I believe he is a member of the Independent Union.

Q. Was he ever a member of the Works Council?

A. Yes.

Q. Has Joe Trost ever expressed any opinion to you?

A. Oh, yes.

Q. Regarding the C. I. O.?

A. Very freely.

Q. Can you tell us what Joe Trost told you he thinks of the C. I. O.?

Mr. Lamfrom: Now, if the Examiner please, just see how far we are straying here from any legitimate American jurisprudence in the practice of the law, despite the fact that this Act says that the rules of evidence in courts of law and equity shall not govern.

Here is a man that is going to testify to something that a fellow Joe Schultz told him—

• Mr. Rissman: Joe Trost.

Mr. Lamfrom: Whatever it is, his views of the C. I. O., and the only thing that connects Joe Schultz—

Mr. Rissman: Joe Trost, T-r-o-s-t.

Mr. Lamfrom: Whatever his name is, I don't know 1451 whether he has anything to do with this case, and is a member of the Works Council.

The water boy up there may have expressed some opinion to this estimable witness. What bearing would that have on it.

If the Examiner please, you can go on interminably.

Trial Examiner Batten: I don't think that any statements which this man may have made to Mr. Landry are at all binding upon the respondent. However, I will permit him to state in general what those statements were. That is in no way binding upon the respondent.

I assume Mr. Rissman is asking these questions for the purpose of showing the type of individual that this man was transferred under.

Mr. Rissman: That is quite obvious, your Honor; that is the reason.

Trial Examiner Batten: I can assume that is what he is asking the question for.

The Witness: Mr. Examiner, may I ask a question?

Q. (By Mr. Rissman.) Who are you going to ask?

The Witness: An objection was made to—

Trial Examiner Batten: Now, just a minute.

Mr. Lamfrom: Don't get too enthusiastic.

The Witness: I hadn't finished my statement.

Trial Examiner Batten: What was the last question, please? I think your rights will be amply protected,

1452 Mr. Lamfrom.

Mr. Lamfrom: Who is this fellow Schultz—I don't get his name.

Trial Examiner Batten: What was that last question?

(The question was read.)

Trial Examiner Batten: You may answer that question, for the purpose that the Examiner indicated.

Mr. Lamfrom: May I get his name, please? I thought it was Schultz.

Mr. Rissman: Trost, T-r-o-s-t.

Mr. Lamfrom: T-r-o-s-t?

Mr. Rissman: Yes.

Mr. Lamfrom: You don't mind if I write that down here?

Mr. Rissman: I will even write it for you.

Q. (By Trial Examiner Batten.) You may tell us, in a few words, what his attitude, as expressed to you, was.

A. In very few words, he said the C.I. O. was the bunk, no good.

Q. Can you relate for us any other instances that confirmed your opinion?

A. As I say, something was objected to before I finished. While he was transferred, after he was transferred to helping this Joe Trost, we had all received pretty strict orders that there should be absolutely no canvassing in the shop for members. I personally received mine from Mr. Harry 1453 Green. A day or two following, while he was helping Joe Trost, who walks by him but Mr. Joe Trost, handing out application blanks for the Independent Union, right in broad daylight.

Q. (By Mr. Engelhard.) Were you there when that happened?

A. I was not.

Mr. Engelhard: Then I move to strike the testimony.

Q. (By Mr. Rissman.) Did Mr. Rasey tell you about this?

A. Yes, more than one time.

Q. Tell us what Mr. Rasey told you?

Mr. Lamfrom: Just a minute. See where it gets us: An interminable web of hearsay.

Trial Examiner Batten: Just a minute. The statement of the witnesses may be stricken. I want to caution you, Mr. Landry, that you may state what Mr. Rasey told you, you may repeat conversations, but do not give them as a narrative of something.

Q. (By Mr. Rissman.) What did Mr. Rasey tell you about this passing of applications?

A. That was substantially his statement, while he was working.

Q. Yes.

A. He says "Here is Joe going along, handing out application blanks."

Q. Joe Trost?

A. Joe Trost.

1454 Q. What kind of application blanks was Joe Trost handing out?

A. For the Independent Union.

Q. (By Mr. Lamfrom.) Did you see them?

A. What?

Mr. Rissman: I object to this intrusion. He was relating a conversation.

Mr. Lamfrom: No, he wasn't—

The Witness: Yes, sir, I was.

Mr. Lamfrom (Continuing): —relating a conversation at all. You asked him what kind of blanks he was distributing, which called for the witness' answer to that question, not Rasey's.

A. I said Rasey talked to me.

Mr. Lamfrom: I will talk to you later.

Q. (By Mr. Rissman.) What else did Mr. Rasey tell you?

A. I asked him, "What did you do?" He said, "I went right over to Carl Senn. He was over by the 13-foot mill", and he said "I told him if we can't distribute our applications, they can't either."

Q. Prior to this change of work by the foreman; the work of Mr. Rasey, had you ever received any instructions from your foreman or superintendent, or anybody else, telling you that you were not permitted to solicit union membership during working hours, or in the plant?

1455 A. I don't know if it was after or before then.

Q. This conversation you relate, where Mr. Rasey told you he saw Joe Trost doing that, was after the instructions were issued, after the instructions prohibiting such activity?

A. Yes.

Q. Do you know if the incident Mr. Rasey told you about, Joe Trost going around with the application cards, occurred after the instructions were issued?

A. I am quite certain.

Q. Can you relate to us any other incidents that confirm your opinion that the company had its finger in the pie?

Trial Examiner Batten: Mr. Rissman, I don't want to

shut you off, but I think he has related quite a few. Let's get along here with the history of this thing.

Mr. Rissman: Very well, Mr. Examiner. He could probably go on for a month.

Mr. Lamfrom: I think he probably could. Under your able prompting, it might work for two months.

Q. (By Mr. Rissman.) Mr. Landry, you started to relate to us before the reason you submitted your resignation to the Works Council.

A. Yes.

Q. Will you tell us what that reason was?

A. I believe I said—

Trial Examiner Batten: Mr. Rissman, didn't he re-
1456 late why he had resigned?

Mr. Lamfrom: Yes.

Q. (By Trial Examiner Batten.) As I recall it, you stated it, didn't you, Mr. Landry?

A. Some of the reasons. I didn't give them all.

Q. (By Mr. Lamfrom.) Have you got some more, now?

A. One more, one more good one.

Mr. Lamfrom: Go ahead.

Trial Examiner Batten: Go ahead.

Q. (By Mr. Rissman.) Go ahead, Mr. Landry.

A. While Mr. Richard Falk was at that one meeting—

Q. Meeting of the Works Council?

A. Yes.

Q. Yes.

A. I asked him if it were possible for to have an independent union, and have officers and directors who were not employed by the company.

Q. Did he reply to that inquiry?

A. He did. He thought it was possible. And I tried to convince the men that, in view of the way the Works Council had been run, and the dissatisfaction that that would be the proper thing, and that we might be able to build up a nice independent union out of it.

Q. What action, if any, was taken by Works Council on that suggestion, or proposal?

1457 A. They couldn't see it at all.

Q. You say that at that time the Works Council was being run unsatisfactorily?

A. Yes.

Q. Can you tell us how that unsatisfaction presented itself to you?

Mr. Lamfrom: Dissatisfaction.

Mr. Rissman: Dissatisfaction.

Mr. Lamson: "Unsatisfaction" is ungrammatical.

Mr. Rissman: Very well.

Q. (By Mr. Rissman.) What were the unsatisfactory methods?

A. The methods of settling dispute, settling requests for wages, wage increases.

Q. What was unsatisfactory about the method of settling disputes?

A. In the manner in which— I could relate an instance of my own. Would that do?

Q. Do you want to give us an example?

A. Yes.

Q. Give us the example.

A. A man on my shift came to me and asked me if I would ask Mr. Harold Falk the next day if it wasn't worth more money to run a machine than just to be a helper, that he was running a machine, and getting less money than the helper.

I said "I will ask him anything", and I did ask him 1458 the next day.

The day following, Mr. Harry Green came up to my machine, in very precise terms,—which I couldn't misunderstand,—

Mr. Lamfrom: Just a minute.

Mr. Rissman: Do you want to stop him?

Mr. Lamfrom: I think the witness should be instructed to say what Mr. Harry Green said.

Mr. Rissman: Let the Examiner decide.

Mr. Lamfrom: You see, now, he is getting in his own view so nicely it may slip by us.

Trial Examiner Batten: I don't think it will influence the Examiner. Again I want to caution you that you must limit your statement to the conversation.

The Witness: I can't use all of his conversation.

Q. (By Mr. Rissman.) Why not?

A. Because it was profane language.

Q. All right, tell us the other part.

Mr. Lamfrom: We don't care about a little profanity here.

Q. (By Trial Examiner Batten.) You remember the words, don't you?

A. Yes, but I can't use them all, because he interjected.

Q. Repeat the substance of the conversation.

A. He wanted to know what the hell Louis Selashak, or

somebody—where he had a raise coming, and he can get 1459 the hell out of here whenever he wants to, he is no good, he is just lucky he is here, and he walked up and down by my machine there. My gosh, they could hear him half way across the shop, shouting and hollering, and I suddenly stopped him and I turned around and I said, "Mr. Green, is that what you call bargaining?" And he said "I don't give a damn what you call it", and he walked away.

Q. (By Mr. Rissman.) During the time when you were a member of the Works Council, whenever there was a request made to management on matters of interest to the workers, wages, hours, or in working conditions, was there any time to your recollection, when some management representative of the company, Mr. Falk or any of the others, came in and discussed those matters with the employees?

A. In the shop, you mean?

Q. No, at meetings.

A. Yes.

Q. Did they ever come in and do anything more than merely state the position of the company?

A. Very seldom.

Q. Can you give us an example of the method in which a matter was presented to the company, and the method in which the company acted upon it, or made its reply?

Trial Examiner Batten: Mr. Rissman, I don't want it to appear that I want to keep any evidence out of this record, 1460 but it does appear to me that the only issue about the Works Council was to show the history of the respondent's labor relations.

It seems to me there is plenty of evidence thus far in the record to show what the Works Council is, how it operated and so forth. So it seems to me if you would confine your examination now of this witness to the issue involved in this case, that we will get along.

Mr. Rissman: I will accept that suggestion, Mr. Examiner.

Mr. Lamfrom: It is hard to, but it is probably better.

Q. (By Mr. Rissman.) Mr. Landry, were you present on May 5, 1937, at the Eagle Club Room?

A. Yes, sir.

Q. You were there as a representative of your union?

A. Yes, sir.

Q. You have heard the testimony of the other witnesses as to who was present?

A. I have.

Mr. Rissman: If there is no objection to that form of question.

Mr. Engelhard: It seems to me, Mr. Rissman—

Mr. Lamfrom: You have stipulated.

Mr. Engelhard (Continuing) —that there is no dispute as to who was there. The records you have introduced in evidence show who was there.

1461 Mr. Rissman: No, it doesn't.

Mr. Engelhard: Landry's name appear in the record, and Adelman's name, and everybody's.

Mr. Rissman: Not to my recollection. The record indicates that Adelman and the committee were there, and Mr. Harold Falk, and Mr. Leo Mann were there representing the company, and other company representatives.

Trial Examiner Batten: I think yesterday a witness testified to all he could remember who were there..

Mr. Lamfrom: Perhaps we could cover everybody who was there, by stipulating that Mr. Rissman was not there.

Trial Examiner Batten: Of course, I assume if you two gentlemen had been there, it would probably have been a much more successful conference.

Mr. Lamfrom: Do you judge that from what has happened here?

Trial Examiner Batten: We seem to be accomplishing things rather quickly here.

Mr. Lamfrom: That is no sarcasm, I hope.

Trial Examiner Batten: Will you proceed, Mr. Rissman?

Q. (By Mr. Rissman.) Aside from that meeting, and what occurred at that time, have there been any requests by your union that the company have conferences for collective bargaining?

A. No.

1462 Mr. Lamfrom: May we have that question? I was conferring with Mr. Engelhard.

(The question was read.)

Mr. Engelhard: Will you stipulate for the purpose of the record that there has been no effort made by the C. I. O. to contact the company since May 5th?

Mr. Rissman: I cannot stipulate, because I do not see that that is so.

Mr. Engelhard: Well, that is the testimony.

Mr. Rissman: I cannot stipulate to anything of which I have no knowledge.

Mr. Lamfrom: Why not ask the witness as to whether or not he knows whether there were any more requests?

Q. (By Mr. Rissman.) Do you know, Mr. Landry, whether there were any other requests for collective bargaining with the company?

A. Not that I know.

Q. By your union?

A. Not that I know.

Mr. Rissman: That's all.

Cross-Examination.

Q. (By Mr. Lamfrom.) I suppose, Mr. Landry, before you came up here, you discussed pretty carefully with Mr. Rissman the testimony that you were going to give here, did you not?

1463 A. Several times.

Q. What?

A. Several times.

Q. A little louder, please, I can't hear you.

A. We talked it over.

Q. You talked it over several times, didn't you?

A. I believe so.

Q. About how many times?

A. I couldn't say.

Q. Well, give us your best judgment?

A. Twice.

Q. At the office of the National Labor Relations Board?

A. Once. It might have been twice there, I couldn't say.

Q. Twice?

A. I believe I was there twice.

Q. When was the most recent meeting with Mr. Rissman?

A. I think it was last Sunday, at our regular union meeting.

Q. Oh, Mr. Rissman attended your regular meeting?

A. He did not.

Q. Well, where was this meeting with Mr. Rissman?

A. At the Colonial Hall.

Q. Where?

A. At the Colonial Hall.

Q. How long did you confer with him?

1464 A. About an hour, I believe.

Q. And when was the other meeting you had with him, to go over your testimony?

A. A week or so ago.

Q. At the office of the Board?

A. Yes.

Q. How long did that take?

A. From 7:30 until around 10 o'clock, something like that.

Q. Seven thirty until nine o'clock?

A. Ten.

Q. Ten o'clock?

A. I believe it was a quarter to ten.

Q. At night?

A. Correct.

Q. And did, in the course of the conversation that you had with Mr. Rissman, you volunteer statements that you were going to make if you were called as a witness?

A. I did.

Q. I suppose you told him about all of the things that you have testified here to, today, substantially?

A. Correct.

Q. Did you say to Mr. Rissman, during your conversations with him, that there were certain things in the attitude and activities of The Falk Corporation that convinced you that they were tied up with the Independent Union?

1465 A. I may have.

Q. Well, didn't you?

A. I don't recall that.

Q. How did that subject come up for discussion?

A. Through my testimony.

Q. To your testimony. You, in talking over this matter with Mr. Rissman, suggested to him that you could give testimony indicating that The Falk Corporation was tied up with the company Independent Union?

A. In my opinion, yes.

Q. Then you proceeded to detail those incidents that you have detailed today?

A. That's right.

Q. Did you go over with him the incidents of these meetings that you attended, of the Independent Union?

A. As well as I could remember them.

Q. How old a man are you, Mr. Landry?

A. 32.

Q. Married?

A. Yes.

Q. How long have you lived here?

A. In Milwaukee?

Q. Yes.

A. Practically all my life.

Q. I didn't get your testimony as to how long you
1466 were connected with The Falk Corporation.

A. 12 years.

Trial Examiner Batten: 12 years.

Mr. Rissman: 12 years.

Q. (By Mr. Lamfrom.) Your feeling towards the Falk Corporation is one of friendliness, isn't it?

A. Surely.

Q. There is nothing in your connection with The Falk Corporation that renders you at all hostile in your attitude toward them, is there?

A. No.

Trial Examiner Batten: You will have to speak up, Mr. Witness.

Q. (By Mr. Lamfrom.) You said "No" quite readily on direct examination. Now, on cross examination, you get a little bit quieter. I will just come up.

Is there any place I could stand here that you would be more inconvenienced?

A. It will not bother me a bit.

Q. Your interest in this matter is one that is prompted by your interest in free collective bargaining, is that right?

Mr. Rissman: I object to the question. His interest will appear from his testimony. He is here as president of the union.

Trial Examiner Batten: I will sustain the objection.

1467 Q. (By Mr. Lamfrom.) What is your interest in this controversy, that leads you to come up here and give this testimony?

Mr. Rissman: I object to that question. It appears from his testimony what his interest is.

Trial Examiner Batten: I will sustain the objection.

Mr. Lamfrom: I think it is pertinent, if the Examiner pleases, for me to inquire, and get from his own lips what his particular interest is.

I have never known that to be ruled out on a cross examination.

Trial Examiner Batten: Well, I see no objection, Mr. Lamfrom, to your questioning the witness with respect to—

Mr. Rissman: Entirely immaterial.

Mr. Lamfrom: The Examiner is talking.

Trial Examiner Batten (Continuing): —to in what capac-

ity he has been employed there, whether he has ever had any difficulty with them whether he is president of any labor organization; I think it will appear from those facts what interest he may have, if any; any controversies he may have gotten into with foremen or superintendents.

Mr. Lamfrom: It appears here that he was a member of the Independent Union.

Mr. Rissman: No such thing appears, if the Examiner please.

Trial Examiner Batten: I think this, Mr. Lamfrom; 1468 I think it is proper for you to inquire as to whether or not he was. The testimony shows he attended meetings and that he was interested in the C. I. O. at the same time he attended some of these meetings.

All of those facts, I think, are perfectly proper to bring out, to show any interest that the witness has; but I think it should be shown by those facts.

Mr. Lamfrom: Well, maybe so.

Q. (By Mr. Lamfrom.) At the time you were attending these meetings of the Independent Union, were you in touch with any of the C. I. O. officials?

A. Officials?

Q. Officers of the C. I. O. here in Milwaukee.

A. No.

Q. Or any members of the C. I. O. union?

A. Members in our own shop.

Q. And you were informing the members of the C. I. O. union in your own shop as to what was occurring at these meetings of the Independent, were you not?

Mr. Rissman: I object to the question. There is no testimony that he informed anybody about anything.

Trial Examiner Batten: I think the question is, did he?

Mr. Lamfrom: Yes.

Q. (By Mr. Lamfrom.) Didn't you?

A. No, I hadn't joined it yet, while I was going to 1469 those meetings.

Q. I didn't ask you that.

A. I didn't inform them.

Q. You didn't inform any of the members of the C. I. O. in your shop of the occurrences that you participated in when you were attending these meetings of the Independent Union?

A. To be perfectly frank—

Q. That is what we expect you to be, perfectly frank.

Trial Examiner Batten: Just a minute, Mr. Lamfrom. Let the witness get the words out of his mouth.

Mr. Lamfrom: I know; but the idea of a witness saying "to be perfectly frank:" That is presumed.

Trial Examiner Batten: I know; but irrespective, when he is right in the middle of a word, let him finish.

A. They may have been members that I talked to, and I didn't know they were, because that was the week in which the signing up was going on. I talked to my personal friends, naturally.

Q. (By Mr. Lamfrom.) When did you first make up your mind to become a member of the C. I. O.?

A. At the very last of this week of meetings, because it didn't satisfy me, I couldn't see the proper connection.

Q. If you will just confine yourself to answering the questions, I will be much obligated to you. I am interested in the answers I ask for.

1470 A. I believe I answered, at the end of the week.

Q. You went up to the C. I. O. and just joined them, that was all?

A. No. They had approached me.

Q. They had approached you before, hadn't they?

A. They had not.

Q. You mean to say that all the time that C. I. O. agitation was taking place, in the Falk plant, you hadn't been approached by the C. I. O.?

Mr. Rissman: I object to that, and resent Mr. Lamfrom's attitude. Merely because he doesn't like the answer is no reason why he should heckle the witness.

Trial Examiner Batten: You may answer.

A. I have forgotten it.

Q. (By Trial Examiner Batten.) The question is, do you mean that during all this time the agitation was going on in this plant, that no one had previously approached you to join the C. I. O.?

A. They had not.

Q. (By Mr. Lamfrom.) You are quite sure of that, are you?

A. I am, because our end of the shop was the very last.

Q. You are quite sure of it?

A. I am.

Q. So that the joining of the C. I. O. came from the determination that the Falk Corporation had a hand in the
1471 Independent Union of Falk Employees, is that right?

Mr. Rissman: I object to the form of the question. He hasn't said that. You may ask the reasons he joined the C. I. O., if you care to. Mr. Landry is testifying, and not Mr. Lamfrom, even though there is a similarity in names.

Trial Examiner Batten: I think the witness is perfectly capable of taking care of himself. Will you read the question please?

Mr. Rissman: I do object to the form of the question.

Trial Examiner Batten: Read the question.

(The question was read.)

A. Partly so.

Q. (By Mr. Lamfrom.) What were the other reasons?

A. When they approached me, they said the night gang was about 99 per cent C. I. O. I said "I always went with the boys, what they wanted." I said, "I will stick with them."

Q. And you were somewhat irritated by the fact that Mr. Greget had made a statement, in answer to the question from the floor at that meeting, I think it was at the North Avenue Auditorium, with reference to how this attorney had been engaged?

A. Right.

Q. Were you present at any conversation or meeting had in which there was a conversation between the boys who were getting up this Independent Union, at which time there
1472 was a discussion amongst themselves as to what would be said if the question of who suggested Mr. Burke came up?

A. Yes.

Q. Who was there?

A. Quite a number of the men.

Q. How many?

A. Substantially those that were present all during the week at those meetings.

Q. Did you participate in that discussion?

A. I did. I created it, I believe.

Q. What was your participation in the discussion?

A. That it didn't satisfy me at all.

Q. Well, what did you say?

A. I believe I related, on the direct examination, that I told them that they could say what they wanted to, but if anybody asked me I would tell them the truth, that Mr. Harold Falk suggested the lawyer.

Q. Then came the meeting at the North Avenue Auditorium, and Greget answered the question as he did, as you have testified?

A. That's right, yes.

Q. Then you got up and said that Harold Falk suggested it?

A. I did not.

Mr. Rissman: I object to that. That is not so.

Q. (By Mr. Lamfrom.) But you had said if anything
1473 came up, you would tell them how it happened?

A. They didn't ask me.

Q. But you had said if anything came up, you were going to tell them?

Mr. Rissman: I object to that.

Q. (By Mr. Lamfrom.) Didn't you?

Mr. Rissman: I object to that.

Mr. Lamfrom: Just a minute.

Trial Examiner Batten: Now, Mr. Rissman, please let him proceed.

Mr. Rissman: He is going into motives.

Trial Examiner Batten: Let him proceed with his cross-examination. If you have an objection to the question, if you will just make your objection, I will rule on it.

What was the question please?

(The question was read.)

Trial Examiner Batten: You may answer that.

A. The question wasn't asked by you.

Q. (By Mr. Lamfrom.) I am not asking you that. Now, Mr. Landry, you are a very intelligent, a capable gentleman.

A. Thank you.

Q. And you know just exactly what the meaning of these questions is, I am sure. Let me repeat: You had said, when the discussion came up among the fellows, that if anybody told a story apparently agreed upon by some of the boys
1474 as to how the attorney, Mr. Burke, came into the picture, that you were going to tell the boys, didn't you?

A. No.

Q. Well, what did you say?

A. I said if anybody asked me, I will tell them that Mr. Harold Falk made the statement.

Q. Knowing what Greget said was not the truth at that meeting, you didn't volunteer to tell your associates and companions in that undertaking, what the facts were, did you?

A. I told many of them, yes.

Q. Did you get up at the meeting and say "Well, what Mr. Greget says is not the truth. Mr. Falk suggested the attorney Mr. Burke."

A. I did not.

Q. Didn't you think that was the thing to do, if you were interested in this thing from a sincere standpoint?

Mr. Rissman: I object to what he thought would have been advisable.

Trial Examiner Batten: The objection will be sustained.

Q. (By Mr. Lamfrom.) Why didn't you at that time tell them? You were all assembled there together.

A. When I got off the stage, I did, those I talked to, I said "Greget is telling a danged lie."

Q. You were on the stage when this happened?

A. Oh, yes.

1475 Q. And how many of the men did you tell that Greget was a liar?

A. I didn't count them.

Q. Well, what did you say?

A. "Greget is lying."

Q. Well, how many did you tell?

A. I just said I didn't count them.

Q. Two or three?

A. At least, if not more.

Q. And from then on, you felt that you did not care to belong to this independent group, because of the fact, among other things, that Greget had made a misstatement, and from that you deduced that the Falk Corporation had a hand in it, is that right?

Mr. Rissman: I object to the question. It is entirely misstating the evidence, if the statement contains evidence, and tends to put words into the witness' mouth as to the reasons why he left this organization.

Trial Examiner Batten: Read the question.

(The question was read.)

Trial Examiner Batten: I think he may answer.

A. I believe I gave several other instances, what helped me to make up my mind.

Q. (By Mr. Lamfrom.) Were you of the opinion at that time that this story that Greget told was concocted by
1476 someone connected with the Falk Corporation?

A. I was of the opinion it was possible.

Q. Were you of that same opinion when you had the talk among yourselves, as to what would be said if the question of an attorney came up?

A. Quite naturally.

Q. What led you to have that opinion?

A. The question should never have come up. They should have told the truth all the way through.

Q. Well, no one of the Falk Corporation officials or executives was present at the time you boys talked about what story would be given concerning the appointment or selection of attorney, was there?

A. Not to my knowledge.

Q. And none of the Falk people were present at the time of this meeting at the North Avenue Auditorium?

A. Falk people, did you say?

Q. I mean the Falk officials or managers.

A. There were foremen there, there was an assistant—I believe there was an assistant superintendent there, or general foreman, whatever his name is, was there.

Q. When this matter of what would be said about the attorney came up, was that the substantial agreement on the part of most of the boys?

A. They didn't agree, to tell the honest truth.

1477 Q. Were there two factions on that point?

A. To be frank, they didn't know what to say to cover it up.

Q. Who didn't know what to say to cover it up?

A. The majority of the members of the Works Council.

Q. What was there to cover up about?

A. There wasn't anything to cover up, but they thought there was.

Q. The majority of them?

A. Yes.

Q. Did Greget say he felt there was something to cover up?

A. If I am not mistaken, he was very much in the discussion as to who they would say suggested it.

Q. What was in the discussion, as to what there was about the suggestion of Mr. Falk of an attorney, that should be covered up?

A. There was such a jumble of arguing that I only remember my own statement clearly, because I differed so much from what the majority thought.

Q. Did you think there was anything to be covered up?

A. That is a hard one to answer.

Q. Sure it is a hard one to answer.

A. I am not in a position to say.

Q. Did you have any thought about it?

A. Yes.

1478 Q. Well, what about that suggestion of Mr. Falk's was there that you thought should or should not be covered up?

A. Because this Mr. Greget was a little too thick with them to suit me.

Q. Thick with whom?

A. With the company officials.

Q. Was he thick with Mr. Harold Falk?

A. I believe he was a good friend.

Q. I know that "thick" is a commonly stated description.

A. When he comes in the shop he talks to him and appears to be a very good friend of Mr. Green.

Q. You mean Harold Falk does?

A. Sure.

Q. And Greget is a good friend of Green?

A. He appears to be.

Q. Did you have any idea, when this question of covering up was discussed, that any member of the Falk Corporation management or official had made any suggestion to that effect?

A. I have no proof.

Q. Did you think that they had said that?

A. I thought it was possible, yes.

Q. And for that reason you took the position that you did?

A. That was part of it, yes.

Q. Because you thought the firm wanted it covered up?

A. I thought it was possible.

1479 Q. Did you take the position you took because the firm wanted it covered up or because some of the boys wanted to cover it up?

A. I knew that the boys wanted to cover it up. It was left open about whether I wanted to think the firm was or not; but the mere fact that Mr. Falk suggested the lawyer put in my mind that there might be some connection there.

Q. A committee went to Mr. Falk?

A. Yes, that's right.

Q. And asked him to suggest a lawyer?

A. Yes.

Q. That was after discussion had at the meeting, wasn't it?

A. Oh, yes.

Q. And a majority of the boys at that meeting were in favor of having a committee go to Mr. Falk and get some

suggestion if he would give it, as to who the lawyer should be, is that right?

A. Substantially.

Q. Mr. Falk, as far as you know, never volunteered to any of the men that he would suggest a lawyer for this Independent Union, did he?

A. In any of the meetings?

Q. At any time, as far as you knew?

A. I don't think so.

Q. Now, you testified that Mr. Hydar had talked the 1480 day before this meeting in 1933, at which Mr. Harold Falk gave a talk.

Do you remember that?

A. Did I say the day before? It might have been two days, I am not sure.

Q. I don't care about that. Before that.

A. He did. If I am not mistaken, he was the first one.

Q. And you related the talk, the substance of what Mr. Falk said.

A. As near as I could remember it.

Q. Will you relate the substance of what Mr. Hydar said?

A. Substantially that there was going to be an election, that they were creating a Works Council to bargain collectively for the men, and they were to elect representatives and explained how it would be, and I believe he told us when we would vote. That is it substantially.

Q. Did Falk substantially repeat, a few days following, what Mr. Hydar had said?

A. He said there was going to be another election, sure.

Q. Otherwise he said in substance what Hydar said? That is away back in 1933. I don't expect you to remember every detail.

A. Well, yes, he talked very much about all these union men's names that were around there. That is, the reason was there. If the election had been just for the men in 1481 the shop, I don't think Mr. Falk would have given a talk.

Q. Harold Falk gave the talk as the result of the first election?

A. That is the way I remember it.

Q. And Hydar gave a talk prior to the first election?

A. That is the way I remember it.

Q. That is correct, is it not?

A. That is the way I remember it.

Q. Did Hydar say that the company had issued any instructions as to who should be elected to the Council as representing the men?

A. You mean, did he name them?

Q. As to describing who?

A. I believe he said they had to work in the plant. Now, I would not be certain. I believe he said that.

Q. You believe he designated the kind of men that should be elected.

A. Men that worked there.

Q. That is, you told the men at the plant that the plan of the Works Council contemplated the election of representatives by the men to meet with the management, and that the representatives elected by the men should be men who worked at the plant?

A. Substantially.

Q. And despite that fact, the men, or at least some 1482 of them, put on the names of outside people, on the ballots, is that right?

A. That's right.

Q. And then, after that, Harold Falk said it was not in accordance with the plan of the Works Council, and that a new election should be held, is that right?

Mr. Rissman: I object to that question. He stated what Harold Falk said, and it is nothing like what Mr. Lamfrom says now.

Trial Examiner Batten: I think this witness can recall what he said. He seems to be perfectly capable of taking care of himself.

Mr. Lamfrom: Sure.

Trial Examiner Batten: Read the question.

(The question was read.)

Mr. Rissman: Pardon me. The testimony of the witness on direct examination is that Harold Falk said nothing like that.

Trial Examiner Batten: Don't you think the witness can recall what he testified on direct examination?

Mr. Lamfrom: And there is a slight possibility that a witness may testify on cross-examination somewhat differently than he did on direct examination. That has been done.

Trial Examiner Batten: That has been done.

The Witness: Will you read the question you asked 1483 me again, please?

(The question was read.)

A. I don't remember him saying that.

Q. (By Mr. Lamfrom) Well, what did he say?

A. That is when he told us that they would not accept any names from outsiders, union or otherwise, on the ballot, they would be thrown away.

Q. Well, Mr. Hydar had stated, previous to the election, had he not, that the election was to be of representatives who were employees of the company, hadn't he?

A. Quite naturally.

Q. So that Mr. Falk's statement after the election was no news to the men?

A. Except to refresh their memory.

Q. That's right. It refreshed their memory. Then the election was held, and, in accordance with the plan, representatives within the plant were elected, is that right?

A. I believe so.

Q. Now, during the time that the Works Council was functioning, and up to the time it disbanded, were there any increases in wages?

A. Oh, yes.

Q. How many?

A. I couldn't tell you.

Q. Well, about?

1484 A. Oh, there must have been two or three.

Q. From 1933 to 1937?

A. Yes.

Q. Were there any changes made in working conditions?

A. Piece work, like that.

Q. How did those changes affect the men, as favorably or unfavorably?

A. Well, I believe they were favorable, what they asked for.

Q. Under the Works Council, the men were permitted, through their representatives, to present their grievances to management, were they not?

A. Supposed to be.

Q. Well, did they?

A. As they could get a chance. There were no meetings or anything held between them. I really don't see how they ever did get the consent of the majority.

Q. Were you ever a representative of the employees on the Works Council?

A. Yes.

Q. Did the matter of individual complaints on the part of workers come up before these meetings at any time?

A. Sure.

Q. And were they disposed of?

A. Yes.

1485 Q. Do you know of any instance where any employee had a grievance or a complaint, that he requested it brought up before the Works Council, discussed and disposed of?

A. I couldn't say I do remember that they were not discussed.

Q. Do you remember any cases of any employee that the—do you remember any cases of any employees at the Falk Corporation during the period that the Works Council functioned where employees or an employee claimed that a grievance or complaint of his was not being acted upon by the Works Council?

A. It might have been acted upon, but they didn't always agree with the result.

Q. That is quite natural, I suppose, isn't it? Now, when the representatives of the men on the Works Council met, they met alone in the first instance, didn't they?

A. That's right.

Q. And the subjects they wanted to take up with the combination of themselves and the management were discussed, is that right?

A. That's right.

Q. And then when the management representatives and the Works Council representatives of the employees met, the matters were discussed again, weren't they?

Mr. Rissman: I object, if the Examiner please. The 1486 constitution and by-laws of the Works Council are in evidences. They outline the entire procedure for presenting grievances.

Mr. Lamfrom: I am asking for the fact.

Mr. Rissman: And holding meetings.

Mr. Lamfrom: I am asking for the fact.

Mr. Rissman: It seems to me if the Council proceeded according to its constitution and by-laws, you will probably have a lot of them.

Trial Examiner Batten: Go ahead.

(Argument on objection.)

Trial Examiner Batten: You may answer the question.

A. Sure, they were discussed.

Q. (By Mr. Lamfrom) You took part in the discussions?

A. Yes.

Q. You expressed your opinions freely?

A. Quite freely.

Q. Your ideas freely?

A. As best I could.

Q. Your purposes?

A. Sure.

Q. There was no feeling on your part, was there, when you participated in these discussions, that the sinister shadow of company domination was thrusting itself in front of you, was there?

1487 A. Why, surely.

Q. There was?

A. There was.

Trial Examiner Batten: If there was, tell us just exactly.

Q. (By Mr. Lamfrom) Just exactly how.

Trial Examiner Batten: That is the thing we have been sparring around about here all morning.

Q. (By Trial Examiner Batten) Just tell us exactly in detail why you felt that the company and its agents was controlling the Works Council, and whether there were any employee representatives on the Works Council who were dummies for the company, who they are, and tell us why you thought they were.

Just tell us the whole story, and we will get it once and for all.

A. There was supposed to be an agency of collective bargaining. We gathered there, and brought up whatever subjects we had. We met first the day before, naturally.

Q. Who?

A. Employee members of the Works Council. And, nine times out of ten, there was decided what would be taken up, the men didn't know until they read the minutes. The following day, we would meet with the management representatives, to discuss the matters, there would be a vote taken, and, 1488 regardless of the vote, the company always decided whether they would grant it or not.

About ten times was brought up the matter of bi-weekly pay days, and we got the same answer every time. I just decided "What is the use of trying to discuss this thing. The men want it. There is no use of bargaining whatsoever. We ask it and they refuse it. Our vote don't mean a thing."

Q. (By Mr. Lamfrom) Is your opinion of collective bargaining this: That the demand made by the bargainners must be granted, or there is no collective bargaining?

Mr. Rissman: I object to his opinion. He was asked to recite the facts, and he is doing that.

Trial Examiner Batten: Pardon my interruption, again, Mr. Lamfrom.

Mr. Lamfrom: Sure.

Trial Examiner Batten: But I want you to give us much more information than you have given, on how this Works Council functioned.

A moment ago you mentioned Mr. Gerard, is it?

The Witness: Greget.

Q. (By Trial Examiner Batten) You said you thought he was connected with the company, I mean friendly with the company. What I want you to do is tell us just why you feel that he, in reality, was representing the company, and not himself, or the employees, what he did to indicate that to 1489 you, and just how you felt about the rest of the employees representatives as well as the men. Tell us the whole story. I presume this thing has been discussed in the shop a thousand times, hasn't it.

A. Oh, yes.

Q. You have heard it discussed?

A. Yes.

Q. The men in the shop have an opinion whether it is of any value or not, haven't they?

A. Surely.

Q. About this thing. What I want you to do is open up your heart. I am giving you this opportunity, and tell us exactly this story.

A. Well, if he won't stop me I can tell it.

Q. Go ahead, and when you get through Mr. Lamfrom can continue with his cross-examination. I want to know.

A. You mentioned this man Greget. I believe that the minutes of the Works Council will show very clearly that, on the majority of names brought up and voted upon, Mr. Greget either voted in opposition or did not vote at all. He very seldom voted the same as the employee representatives did.

There was another one on—

Mr. Lamfrom: Just this interruption:

Q. (By Mr. Lamfrom) Was Greget a management 1490 representative?

A. He was an employee representative while I was there.

Q. He was elected by the employees?

A. That is right.

Q. He was their representative?

A. Supposed to be.

Mr. Lamfrom: All right.

A. (Continuing) At one time we discussed in our private employees-only meeting the matter of disbanding, or resigning. We all decided pretty unanimously that we had got about all we could get out of it, and we would give it up.

The next day I called Mr. Harold Falk into the meeting or asked that he be called, and was the spokesman, and said we had decided to give it up as a bad job.

Mr. Lamfrom: Just an interruption to get the sequence here.

Q. (By Mr. Lamfrom) When was this?

A. I couldn't tell you. It was in the minutes.

Q. What year?

A. It may have been '33, '34 or '35.

Q. It is somewhere earlier?

A. Prior to 1937, yes. And my good friend, Mr. Joseph Trost, said "Well, if the company doesn't want to keep it up any more, I will resign."

In my opinion, as a man there representing the em-1491 ployees, and the employees only, the common talk in the shop is, or was at the time, that the Works Council is absolutely no good, it is company-dominated.

Q. Have you opened up fully your heart to the Examiner on this subject?

Mr. Rissman: Don't interrupt him, Mr. Lamfrom.

A. If I would study, I think, a few minutes, I could talk for a week.

Q. (By Mr. Lamfrom) Go ahead. You are all heart. You are showing your feelings quite well in the matter.

A. Absolutely. I once left the Works Council for the very purpose that one of my fellow employee representatives was discharged, and I never did get a satisfactory accounting. We called Mr. Pritzloff in our meeting, tried to get it, and when it came down to the matter of taking a foreman's word or this individual's, why, Mr. Pritzloff admitted that he naturally would take the foreman's word, and I said "So long as it is the case of that, why don't you give the man the benefit of the doubt, and give him another chance?"

He said "He will never work here again." Right then and there I thought of a little clause in the constitution, whereby my independence was guaranteed. I didn't think so much of that, and I offered my resignation at the following meeting.

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They voted not to accept it, and I said "You can vote 1492 from now until Christmas, I am through", and I walked out, and I didn't go back for three or four months.

Some time later I was renominated at a primary election, and another employee representative by the name of Bill Stickman, William Stickman, him and I both agreed we wouldn't take it again, he didn't like it either, and he said he wouldn't accept the nomination.

When we were both of us renominated, I flatly refused it, and said "Hold another election according to the by-laws." I believe he refused it too, and according to what he told me, Mr. Pritzloff, the foundry superintendent, approached him and said "Don't you know, Bill, it costs about a hundred dollars to hold another election?" "All right, then, I will take it."

In other words, his own ideas didn't mean much, but what Mr. Pritzloff told him as his superintendent, he said, "I know what's good for me", and he accepted the job.

All those things go to stick together in my mind.

Q. During all this period that the Works Council functioned, from 1933 on, there was no labor trouble in the plant, was there?

A. Right at the start there was a little bit.

Q. What was that?

A. Quite a few of the boys signed up in the Federation of Labor.

Q. When? About 1933?

1493 A. Yes. Is that what you are referring back to?

Q. Did you?

A. I did, I believe I did.

Q. And as a result of that, what happened?

A. Well, as a result, it seems to me that Mr. Oristo lost his job, because he got up as spokesman at one of the meetings and gave the stool pigeons, as he called them, a kind of a snootfull, and it was very shortly after that, that his connection was severed with the company.

Q. And you continued your union membership?

A. For a time I did.

Q. Were you interfered with in any respect?

A. I was not.

Q. Because you belonged to the union?

A. No.

Q. How long did you continue your union membership?

A. I don't remember.

Q. Approximately?

A. Six months, I think.

Q. And later on you gave it up?

A. It died out in the shop, there was no use to keep on.

Q. Why?

A. Because I wanted to belong to whatever the majority belonged to. They—if they didn't want that, I didn't either.

Q. Do you think the majority in the plant honestly 1494 didn't want a union?

A. I didn't say that.

Q. Anyway, the majority in the plant didn't seem to want any union, did they?

A. Just as quick as Mr. Oristo lost his job, that was just like throwing water on fire there, union spirit died right out.

Q. You did everything you could in the Works Council to cooperate with your fellow employees, didn't you?

A. I did.

Q. There were others that did the same thing that you did?

A. Some of them.

Q. Have you mentioned all of those?

Mr. Lamfrom: Am I interrupting the Examiner?

Trial Examiner Batten: No, no. Go ahead.

Q. (By Mr. Lamfrom) Have you mentioned all those that didn't appear to, in reality, represent their fellow employees, or are there some more?

A. There were several there, I don't even know if I recall their names. They never agreed or wanted to give the men this or that, they didn't think it was a good idea. Some of them never even said hardly a word there, in the one year that I knew them.

Q. These elections of the representatives, how were they carried out? I am referring to the elections of the representatives of the men? Was that a secret ballot?

A. Yes.

Q. And the men could elect anyone they wanted?

A. They first nominated anybody they desired.

Q. Then the person elected held office for how long?

A. About a year I believe, or so.

Q. Then another election was held?

A. That's right.

Q. The election was perfectly free?

A. Yes.

Q. And open?

A. Surely.

Q. And if the employees were dissatisfied with the action of any representatives, it was open to the employees to elect somebody else, was it not?

A. They showed it on the ballot.

Q. Beg pardon?

A. They would show it on the ballot.

Q. They would show it on the ballot. Were the proceedings of the Works Council, and the determinations which were reached on questions which came up before it, pretty well known throughout the plant?

A. When the minutes were issued, the men became aware of them.

Q. Everyone of them got a copy of the minutes?

1496 A. Supposed to, yes.

Q. And the minutes showed, didn't they, how the employee representatives had voted on questions?

A. I don't know if it put the names down.

Q. Not necessarily the names.

A. Yes, it showed how the vote was, yes.

Q. And the employees in the shop were quite fully informed of matters that came up, and how they were determined, weren't they?

A. They were.

Q. And, if they were dissatisfied with any one of their representatives, they could, as I said before, elect another representative?

A. They had no way of knowing that they were dissatisfied.

Q. There was no way of knowing?

A. Very little, that I know.

Q. They could have turned them all out, couldn't they?

A. Oh, yes.

Q. Were there discussions among the employees prior to these elections as to whom they wanted to act as their representative?

A. Yes.

Q. Were the employees interested in that?

A. Very little.

Q. Why very little? I mean, just describe the condition which leads you to that conclusion.

1497 A. Because, while I was a member, I would say 90 per cent of the men I talked to said it was no good, they were not interested, they couldn't get nothing anyhow.

Q. You did everything you could to accomplish the things for the best interests of your associates, didn't you?

A. I did.

Q. And there were others that did it?

A. Yes.

Q. And, in electing you, the employees, I presume, thought they had elected a good, vigorous, capable representative?

A. I believe they elected me because I engaged in a lengthy discussion with Mr. Falk on union, the night he gave the talk.

Q. I was referring to any disturbances or labor troubles within the plant, during the years that the Works Council functioned, and you began to tell about some organization, and then that the organization was dropped, or the men dropped the organization.

Was there anything else that disturbed the tranquility of the relations between the Falk Corporation and its employees during those years?

A. No, outside the dissatisfaction with the results of the Works Council, there was no labor trouble—

Q. The relations—go ahead. I didn't mean to interrupt you.

1498 A. I was going to say there was no labor trouble I know of.

Q. No strikes?

A. No.

Q. Or lockouts.

A. No.

Q. Or walk-outs?

A. No.

Q. Or quitting work?

A. No.

Trial Examiner Batten: Or sit-downs.

Q. (By Mr. Lamfrom): Or sit-downs?

A. No, no.

Q. The relations between the company and the men were friendly and amicable, weren't they?

A. I think, in a large sense, yes.

Q. Now, then, your idea in cooperating with the other men in this independent organization was to establish an organization within the plant that had outside representatives speaking for them, is that right?

Mr. Rissman: What time are you speaking of now?

Mr. Lamfrom: When he started to be interested in the formation of the Independent Union.

Mr. Rissman: The present Independent Union?

Mr. Lamfrom: Yes.

The Witness: That is why I asked Richard Falk pertaining to it.

Q. (By Mr. Lamfrom.) And Richard Falk said there would be no objection to that, didn't he?

A. I believe that was his answer.

Q. So that you then knew, from someone connected with the management, at least from Mr. Harold Falk's son, that the company had no objection to that sort of a plan?

A. I didn't know if the company objected to it or not.

Q. You asked Richard Falk, didn't you?

A. Yes.

Q. And you thought from him you would get an answer that would lead you to a conclusion whether that would be satisfactory to the company, didn't you?

A. On a point of law, that is what I had reference to. He is not running the Falk.

Q. I understand that. But on the point of law, you asked him whether or not it would be all right for the men to have outside people?

A. That is what I mean.

Q. You mean whether it would be all right in accordance with the law?

A. That is my idea.

Q. You knew, didn't you, that the law provided that the employees could be represented by representatives of their own choosing in collective bargaining, didn't you?

1500 A. I am not so sure that I knew it then, and I wanted to find out. That is why I asked it.

Q. Hadn't you heard of the Wagner Law?

A. I believe I have.

Mr. Rissman: Some people haven't.

Mr. Lamfrom: You keep quiet.

Q. (By Mr. Lamfrom.) Hadn't you heard of the Wagner Law?

A. I believe I have, yes.

Q. Hadn't you heard of Section 7 (a) of the National Industrial Recovery Act?

A. I believe I had.

Q. Didn't you understand that, from 1937 on, the principle of Federal law enacted by Federal statute, provided em-

employees could choose representatives of their own choosing, to represent them in collective bargaining, and that any interference on the part of employers, at least after the Wagner Act was passed with that provision, was unfair labor practice?

Didn't you know that? You are an intelligent man.

A. It sounds very clear as you relate it, but, when the lawyers and the government don't agree in their interpretation, how do you expect me to give it to you?

Q. Lawyers don't agree on what?

A. Section 7-A of the Wagner Law.

Q. Where did you get the idea that the lawyers disagreed on the interpretation of Section 7-A?

1501 Mr. Rissman: I object to that.

Mr. Lamfrom: Just a minute.

Mr. Rissman: Can't I make an objection?

Mr. Lamfrom: You can make twenty.

Mr. Rissman: One is enough. He is asking his conclusions, as to his understanding of legal problems.

(Discussion on objection.)

Trial Examiner Batten: I will sustain the objection. I suppose he would really know better than to go to a layman for advice on law.

Mr. Lamfrom: It seems to me, Mr.—

Mr. Rissman: Now, Mr. Lamfrom is going to—

Mr. Lamfrom: Just a minute. Some day, when you get a little older in the practice, you will have the courtesy to wait until a man finishes his statement.

Mr. Rissman: Not by any example set here.

Q. (By Mr. Lamfrom.) You were instrumental in the formation of this Independent Union, weren't you?

A. If you could call it such.

Q. And, in connection therewith, you asked Harold Falk whether it would be all right to have outside representatives for the men, didn't you?

A. That was Richard Falk.

Q. That was Richard Falk, is that right?

A. That's right.

1502 Q. And the reason you asked him that was that you wanted to be informed as to your legal rights?

A. Merely get his opinion.

Q. Did you think it was necessary for the C. I. O. people to ask the Falk Corporation whether it was permissible for the employees of the Falk Corporation who were represented by the C. I. O. to have C. I. O. representatives?

Mr. Rissman: I object to the question. It is entirely immaterial what anybody else thought, giving his reason for his action.

Trial Examiner Batten: I think the question is whether or not this witness felt it was necessary for the C. I. O. to ask the advice of The Falk Corporation.

Mr. Lamfrom: Yes.

A. By the time I came to speak as a representative of our C. I. O., I was very well informed, I think, as to the fact that we could choose who we wanted, and this and that.

Q. (By Mr. Lamfrom.) And before that, you didn't know anything about it, did you?

A. I had monkeyed with it. I had read it.

Q. You were pretty well convinced, weren't you, that your legal right—

A. In my own mind.

Q. Just a minute. (Continuing.) —that your legal right was to choose your own representatives for collective bargaining with the Falk Corporation, wasn't it?

A. In my own opinion, yes.

Q. Then why did you want to find out from Mr. Falk what, as a matter of law, you might want to do with the Independent Union?

Mr. Rissman: I object. He has answered the question three times. He stated he wanted Richard Falk's opinion.

Trial Examiner Batten: If he has answered it three times—

Mr. Lamfrom: A fourth won't hurt him.

Trial Examiner Batten (Continuing): —one more won't do any harm.

A. About the same thing, sure, to find out their opinion on it, in regard to an Independent Union.

Q. (By Mr. Lamfrom.) What difference in your mind was there between a so-called independent union and the American Federation unions and the C. I. O. union?

A. What is the difference?

Q. Yes, in your mind.

A. Oh, in that respect I don't suppose there is much difference. I had never thought of it in connection with an independent union.

Q. You were in favor of an independent union, weren't you?

A. No,—originally, yes. Not then.

Q. Except when you asked Falk about it?

1504 A. I was beginning to be swayed.

Q. What was that?

A. I was beginning to change my mind, in other words.

Q. When you asked Richard about it?

A. Yes.

Q. Your mind was beginning to be swayed by the fact that you thought the corporation had a hand in it, is that right?

A. Partly, yes.

Q. And you wanted to find out from Richard whether you could erect or build an independent union which would be free from company domination or participation?

A. Substantially.

Q. And you thought you could establish that by outside representatives?

A. Just about that, yes.

Q. Then you went on with the boys, didn't you, in the organization? When did you first learn that this organization was not, as far as the employees were concerned, to be represented by outside people?

A. The Independent Union was not to be represented by outside people?

Q. Yes, when did you first learn that?

A. About four seconds after I said it.

Q. After you said what?

A. After I asked Mr. Falk, and he answered.

1505 Q. And then, after that, you did nothing with reference to the organization of this Independent Union?

A. No. The majority of them were opposed to the idea. I couldn't force it on them.

Q. But you went ahead and had some meetings after that?

A. I certainly did.

Q. Attended meetings.

A. Yes.

Q. Participated in the discussion?

A. At their request.

Q. Took application blanks?

A. Yes.

Q. Why did you do all of those things if you had become convinced that the Independent Union was not the kind of union you wanted?

A. I said I was becoming convinced.

Q. You were becoming convinced.

A. Yes. I still had hopes of changing their mind.

Q. When was the time when you arrived at the point where you became convinced?

A. I can't name any certain moment.

Q. You are sure that during all these times that you were active in the preliminary steps in the formation of this organization, that you were not in Communication with any of the C. I. O. people?

1506 A. I was not.

Q. And you had not been approached by the C. I. O. people?

A. I was approached by the Sunday meeting, yes.

Q. The first time?

A. Yes, I believe it was—

Q. Yes?

A. Let's see now, I believe it was on Friday.

Q. You attended the meeting at the plant on April 12th, at 12:30, due to the fact that you were notified by your wife that Mr. Hydar had been up there?

A. Right.

Q. Did you think there was anything unusual about your being requested or invited to a meeting?

A. Unusual? It seemed unusual, I hadn't been to any for a year or so.

Q. You hadn't what?

A. I hadn't been attending regular meetings then.

Q. Regular meetings of what?

A. Of the Works Council.

Q. Did you think this was a meeting of the Works Council?

A. I believed, from conversation I had with several men from the Works Council, when my wife told me that, I recalled that something was said about starting another type of union.

Q. You knew when you went down there that probably that was going to be the subject of the discussion, didn't you?

1507 A. Yes, I believed I recollected.

Q. You were interested in that subject at that time?

A. Naturally.

Q. You found about 20 to 23 members, or former members of the Works Council there, didn't you?

A. Yes.

Q. And the discussion was around the question of how to start an independent union?

A. Yes.

Q. What suggestion did you make?

A. Thursday, to be perfectly frank, I don't recall my own suggestions in it.

Q. Did you participate in the discussion?

A. Oh, yes. I do remember somebody sitting across from me talking about the shop getting with the C. I. O.

Q. Some of the boys talked that?

A. Yes. I remember hearing that.

Q. That didn't cause you to change your interest in it?

A. No. But merely because they was sitting right across from me.

Q. Beg pardon?

A. Merely because they were sitting right across the table from me; that is how I remember that I heard it.

Q. What was decided there?

A. I don't remember what the wind-up was. - They 1508 talked of different ways, and how to go about it, and such subjects.

Q. This question of the raise wasn't discussed there, was it?

A. I don't think so.

Q. When was that discussed?

A. I believe it was the following day. It might have been the first day. I wouldn't say for sure.

Q. The raise which the management had agreed to give had been obtained through the Works Council, hadn't it?

A. I believe so, the original raise.

Q. That was going to be effective June 1st, is that right?

A. Yes.

Q. At a meeting of the men interested in the Independent Union the following day, the question of the raise came up. That is right, isn't it?

A. I don't know whether it was the first day or the following day, I don't remember.

Q. Let me go back to this meeting of April 12th for a minute, and ask you whether you in any manner made any suggestion or offered any hope, in the question of the organization of an independent union?

A. I talked as much as any of the rest.

Q. You talked quite a good deal, didn't you?

A. Sure, I talked as much as any of them around there. I wasn't bashful.

1509 Q. You were really interested in the subject, weren't you?

A. Sure.

Q. That being the case, tell us some of the things you said about the organization of the Independent Union?

A. I can't recall offhand. I am as much interested as anybody in the welfare of the men, and it was a general discussion on what kind of union, and how good the C. I. O. was, and the expression was frequently expressed, as to one liked it and one didn't like it, there was more or less talk of the faults of different unions.

Q. That is, the discussion was around the question of what would be the best kind of an organization for the Falk employees?

A. Yes.

Q. Was the prevailing opinion there that an independent union would be better than the C. I. O.?

A. I believe that is the way it wound up.

Q. Did you have that opinion, and express it?

A. I don't believe I expressed it.

Q. You didn't express any opinion?

A. I don't think I did.

Q. What was the ultimate conclusion of that meeting, what was left to be done?

A. Now that you speak of it that way, I believe that is the one Mr. Harold Falk was at.

1510 Q. April 12th, I am talking about.

A. Yes. We decided to meet again the next day.

Q. You decided to what?

A. To meet again the next day.

Trial Examiner Batten: Mr. Lamfrom, I believe this will be a good place to adjourn.

Mr. Lamfrom: I am perfectly willing.

Trial Examiner Batten: We will adjourn until 1:30.

(Thereupon, at 12:30 o'clock P. M. a recess was taken until 1:30 o'clock P. M. of the same day.)

